

# **Extending the Senior Managers & Certification Regime to FCA firms – Feedback to CP17/25 and CP17/40, and near-final rules**

**Policy Statement**

PS18/14\*\*\*

July 2018

## How to respond

In this Policy Statement we report on the main issues arising from Consultation Papers 17/25 *Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms* and 17/40 *Individual Accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime*. We also publish the near-final rules.

We have developed the policy in the underlying rules in the context of the existing UK and EU regulatory framework. We will keep the policy under review to assess whether any amendments will be required due to changes in the UK regulatory framework. This includes changes that result from the UK's vote to leave the EU.

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### How to navigate this document onscreen



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# 1 Overview

## Introduction

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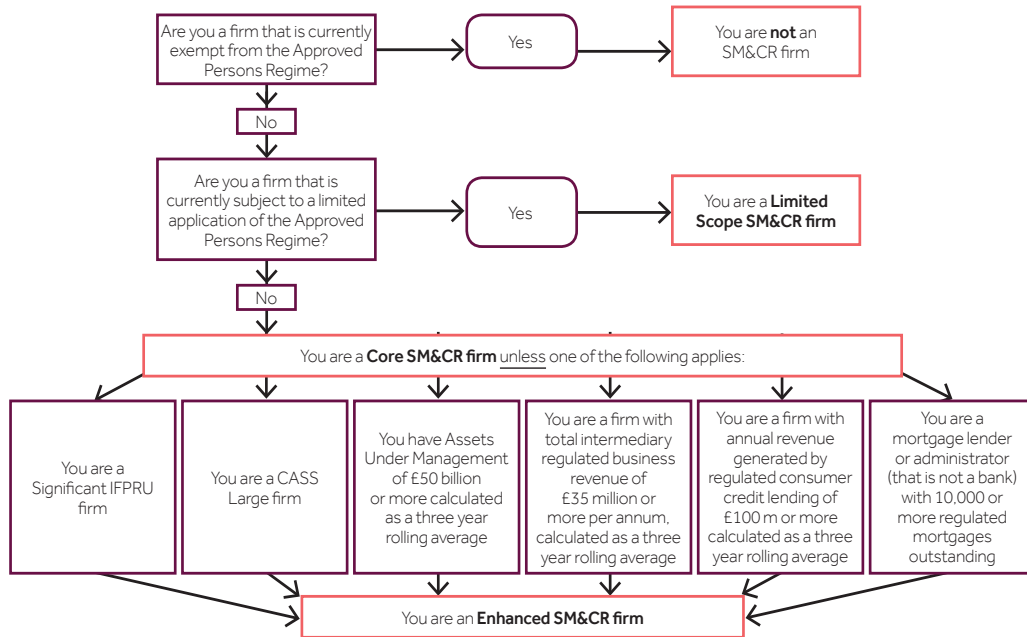
- 1.1** The Senior Managers & Certification Regime (SM&CR) aims to strengthen individual accountability in financial services.
- 1.2** In July 2017, we consulted on extending the SM&CR to almost all firms regulated only by the FCA and not the PRA ('solo-regulated' firms) in Consultation Paper (CP) 17/25 – *'Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms'*. A second CP, CP17/40 – *'Individual Accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime'*, set out how we proposed to move FCA firms and individuals from the Approved Persons Regime (APR) to the SM&CR.
- 1.3** This Policy Statement (PS) summarises the feedback we got to CP17/25 (Part 1) and CP17/40 (Part 2), and our response to the feedback received.
- 1.4** We have provided a separate guide to the SM&CR. This sets out the main features of the regime and gives the details of how the move to the SM&CR will happen. If your firm is preparing for the SM&CR, we recommend that you read the guide.

## Who does this affect?

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- 1.5** All firms authorised under the Financial Services and Markets Act (FSMA) and regulated by the FCA will be affected by these changes, as well as European Economic Area (EEA) and third-country branches. Insurers are also affected but these firms should read PS18/15.
- 1.6** The requirements depend on whether firms are classified as Limited Scope, Core or Enhanced. Use Figure 1 and Table 1 to identify your firm's classification.

**Figure 1: Firm Checker Tool**



**Table 1: Table of Firm Types**

Firm type	Description
<b>Limited Scope Firm</b>	Firms that have fewer requirements than Core firms. This covers all firms that currently have a limited application of the Approved Persons Regime, including: <ul style="list-style-type: none"> <li>• limited permission consumer credit firms</li> <li>• all sole traders</li> <li>• authorised professional firms whose only regulated activities are non-mainstream regulated activities</li> <li>• oil market participants</li> <li>• service companies</li> <li>• energy market participants</li> <li>• subsidiaries of local authorities or registered social landlords</li> <li>• insurance intermediaries whose principal business is not insurance intermediation and who only have permission to carry on insurance mediation activity in relation to non-investment insurance contracts</li> <li>• authorised internally managed Alternative Investment Funds (AIFs)</li> </ul>
<b>Core Firm</b>	Firms that will have a baseline of SM&CR requirements applied.
<b>Enhanced Firm</b>	A small proportion of solo-regulated firms that will have to apply extra rules.

## Who this applies to

### 1.7 People who should read this whole document:

- all solo-regulated UK firms authorised under FSMA
- EEA and third-country branches

**1.8** People who only need to read sections of this document:

- firms subject to the Banking SM&CR (Chapters 8 and 15)
- Appointed Representatives<sup>1</sup> (Chapters 2, 3, 10 and 13)

**1.9** People who don't need to read this document:

- incoming EEA firms providing cross-border services only – these firms are out of scope of the SM&CR
- Payment Services firms that aren't authorised under FSMA– these firms are out of scope of the SM&CR
- Insurers and insurance branches (please read PS18/15 for the relevant near-final rules for these firms)

## Context

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**1.10** This Policy Statement sets out changes to how we will regulate people working in financial services. The SM&CR replaces the APR for nearly all the firms we regulate.

**1.11** The aim of the SM&CR is to reduce harm to consumers and strengthen market integrity by creating a system that enables firms and regulators to hold people to account. As part of this, the SM&CR aims to:

- encourage staff to take personal responsibility for their actions
- improve conduct at all levels
- make sure firms and staff clearly understand and can demonstrate who does what

**1.12** In March 2016 we applied the SM&CR to banks, building societies, credit unions and PRA-designated investment firms ('banking firms'). Subsequent changes to FSMA now require us to extend the SM&CR to all firms authorised to provide financial services under FSMA.

**1.13** In this PS we summarise changes to our rules to extend the SM&CR to cover all authorised firms. These rules will apply:

- the Senior Managers Regime (SMR) to FCA solo-regulated firms. This will focus regulatory approval on fewer senior individuals in a firm than under the current APR
- the Certification Regime to FCA solo-regulated firms. This requires firms to assess the fitness and propriety of specific individuals who could harm the firm, its customers or the market

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<sup>1</sup> Limited Permission Consumer Credit firms that also act as Appointed Representatives for other business (eg a limited permission credit broker that is also an AR for insurance business) are, however, within scope of the extended SM&CR as they are authorised firms.



- the Conduct Rules to most staff working in financial services in FCA solo-regulated firms

## Summary of feedback and our response

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- 1.14** We received 225 responses to CP17/25 and 47 to CP17/40. We have also considered relevant responses to CP17/26 and CP17/41, which set out proposals for applying the SM&CR to insurers.
- 1.15** The vast majority of these responses supported our proposals. Many respondents also asked for further clarification on how the rules apply. We also received some suggestions for changes to the proposed rules. In general, we intend to implement the consultation proposals, but will make some changes in response to this feedback.
- 1.16** As a result of the responses received, we have made the following changes to our CP17/25 proposals:
- removed the Prescribed Responsibility (that only applied to Core firms) to inform the governing body of their legal and regulatory obligations
  - provided an easy process for firms to tell us they wish to voluntarily apply a higher regime tier
  - amended three of the Enhanced criteria to smooth single-year anomalies
  - lengthened the time period from 6 to 12 months for a firm to implement the Enhanced tier, once they have met relevant criteria
- 1.17** We intend to implement the proposals set out in CP17/40 largely as proposed, but have made two changes:
- aligned the REP008 reporting period for Limited Permission Consumer Credit firms with their annual return
  - adjusted a number of regulatory forms following specific feedback
- 1.18** We have concluded that these amendments do not lead to significant changes to the costs and benefits and hence do not require an additional cost-benefit analysis (CBA) under section 138I(5) of FSMA.
- 1.19** We have updated our CBA and published it alongside this PS. This is because of the importance of the SM&CR for the financial services sector, changes in the number of firms in the different tiers, and the complexity of the CBA. The updated document sets out the CBA in relation to the near-final rules.<sup>2</sup>

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2 [LINK](#)

## Equality and diversity considerations

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- 1.20** We have considered the equality and diversity issues that may arise from the new rules in this PS.
- 1.21** Overall, we don't consider our rules adversely impact any of the groups with protected characteristics, ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 1.22** A consumer body suggested that we review whether the fit and proper requirements support the recruitment of diverse candidates into leadership positions in firms. We have responded to this feedback in Chapter 4.
- 1.23** The same respondent considered that the SM&CR should be used to address diversity on boards across the industry. While we agree that diversity is an important issue for firms and industry to address, we don't think SM&CR is the best mechanism to deal with this. There are a number of other initiatives at the UK and EU level, including diversity obligations on firms under MiFID and CRD, that we believe are better placed to improve diversity. Our supervision teams will continue to impress on senior management the importance of diversity in their teams, and we may ask firms directly about gender diversity policies.<sup>3</sup>

## Next steps and implementation dates

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- 1.24** The legal instrument accompanying this PS contains near-final rules. Although they are near-final in most respects, they:
- may be amended by subsequent Handbook changes, for example those relating to the UK's exit from the European Union, or SM&CR optimisations
  - are not near-final in respect of benchmark activities, our approach to which we will consult on separately
  - are subject to commencement regulations to be made by HM Treasury
- 1.25** Firms affected by these changes will move to the new regime on 9 December 2019. Note that Handbook references in this PS refer to the rules set out in the accompanying Instrument.
- 1.26** Firms should check they have the appropriate people in the correct approved functions before approved individuals are converted from the APR to the SM&CR. This will help to make the move to the new regime as effective as possible.

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<sup>3</sup> [www.fca.org.uk/news/speeches/women-finance-keeping-pressure-progress](http://www.fca.org.uk/news/speeches/women-finance-keeping-pressure-progress)



# Part 1: Feedback to CP17/25: Extending the Senior Managers & Certification Regime to all FCA firms



## 2 Senior Management Functions & Prescribed Responsibilities

All UK Limited Scope, Core and Enhanced firms should read this chapter. The feedback for branches is dealt with in Chapter 7.

**2.1** In this chapter, we summarise the feedback we received on our proposed rules and guidance for applying Senior Management Functions (SMFs) and our response.

### Our proposals

**2.2** In CP17/25, we proposed applying the following SMFs to Core and Enhanced firms where they have individuals performing the relevant roles:

- SMF1 – Chief Executive
- SMF3 – Executive Director
- SMF27 – Partner
- SMF9 – Chair
- SMF16 – Compliance Oversight
- SMF17 – Money Laundering Reporting Officer (MLRO)

**2.3** We proposed applying a streamlined set of Senior Management Functions to Limited Scope firms, and additional Senior Management Functions for Enhanced firms.

**2.4** We also proposed applying the following Prescribed Responsibilities (PRs) that must be allocated to Senior Managers in Core and Enhanced firms:

**Table 2: Prescribed Responsibilities**

Handbook PR Ref.	Description
<b>All Core and Enhanced Firms</b>	
(a)	Performance by the firm of its obligations under the SMR, including implementation and oversight
(b)	Performance by the firm of its obligations under the Certification Regime
(b-1)	Performance by the firm of its obligations in respect of notifications and training of the Conduct Rules
(d)	Responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime



Handbook PR Ref.	Description
(z)	Responsibility for the firm's compliance with CASS (if applicable)
<b>Authorised Fund Managers</b>	
(za)	Responsibility for an AFM's value for money assessments, independent director representation and acting in investors' best interests. This PR only applies to AFMs. For more details, see CP17/18, MS15/2.3 – Asset Management Market Study: Final Report and PS18/8.
<b>Enhanced Firms</b>	
(c)	Compliance with the rules relating to the firm's Responsibilities Map
(j)	Safeguarding and overseeing the independence and performance of the internal audit function (in accordance with SYSC 6.2)
(k)	Safeguarding and overseeing the independence and performance of the compliance function (in accordance with SYSC 6.1)
(l)	Safeguarding and overseeing the independence and performance of the risk function (in accordance with SYSC 7.1.21R and SYSC 7.1.22R)
(j-3)	If the firm outsources its internal audit function, taking reasonable steps to make sure that every person involved in the performance of the service is independent from the persons who perform external audit, including: <ul style="list-style-type: none"> <li>• supervision and management of the work of outsourced internal auditors</li> <li>• management of potential conflicts of interest between the provision of external audit and internal audit services</li> </ul>
(t)	Developing and maintaining the firm's business model
(s)	Managing the firm's internal stress-tests and ensuring the accuracy and timeliness of information provided to the FCA for stress-testing

**2.5** In CP17/25, we also proposed a PR for ensuring that the governing body is informed of its legal and regulatory obligations. We have not included this in Table 2 because we are removing this PR following consultation. Read our response on p. 20 for more information.

**2.6** We proposed that PRs would not apply to Limited Scope firms, and that additional PRs would apply to Enhanced firms.

## Senior Management Functions in the Core tier

### Feedback received

- Q1:** Does the proposed list of Senior Managers in the Core regime cover the appropriate roles, ie the most senior decision makers within a firm?
- Q2:** Are there any other roles that the FCA should consider specifying as SMFs?
- Q3:** Are there any proposed Senior Managers that the FCA should consider excluding from the Core regime?

**2.7** Most respondents supported the list of SMFs proposed for the Core tier and agreed we had taken a proportionate approach to Core firms.

### **Scope of Senior Management Functions**

**2.8** Most respondents agreed that the proposed Senior Manager roles covered the most senior decision-makers. They felt that adding too many SMF roles would increase complexity and firms' costs. Some respondents asked us to create sector-specific SMFs. We were also asked to consider providing the option for firms to choose to have extra SMFs.

**2.9** Some respondents thought that larger or more complex Core firms may have people doing jobs more suited to the functions defined in the Enhanced tier. They felt that the proposals concentrate responsibility on a narrow group of executives. They argued that additional SMFs would help reflect the scale and complexity of these businesses. Suggestions for additional SMFs in the Core tier included:

- the Enhanced SMF functions equivalent to the CF28 – Systems & Controls function under APR, ie Chief Finance (SMF2), Chief Risk (SMF4) and Head of Internal Audit (SMF5)
- the SMF24 – Chief Operations Function
- the SMF18 – Overall Responsibility Function
- the SMF7 – Group Entity Senior Manager Function

**2.10** One respondent thought the proposals created too much bias towards second line functions by excluding managers of major business units but including roles such as the Money Laundering Reporting Officer (MLRO).

### **Requests for clarification**

**2.11** Respondents asked us to clarify if:

- we required an SMF9 – Chair to be a Non-Executive Director
- the term 'required functions' meant that firms needed to appoint people to fill these roles where they don't currently have them, and how two of these roles (SMF16 – Compliance Oversight and SMF17 – MLRO) apply to specific firm types
- all types of partners fall within the definition of the SMF27 – Partner function
- membership of the management body or holding a title matching that of an SMF would automatically make an individual a Senior Manager
- they could apply the regime at a group level
- individuals performing two or more SMFs would require multiple approvals.



## Our response

### Additional Senior Management Functions

Most respondents agreed with our proposals to apply a streamlined set of SMFs to Core firms. As such, we are confirming the list of functions we consulted on and are not applying any additional functions to these firms.

We think this is proportionate and focuses accountability on the most senior people in firms. It isn't intended to change how firms organise themselves. For example, even though the Systems & Controls Function will no longer be approved by us in Core firms, firms can still have someone performing this role. In addition, the Certification Regime may, and the Conduct Rules will, apply to these individuals – for example, as a Material Risk Taker or the Significant Management Function. We think this is sufficient to improve conduct and enhance accountability in these roles.

Respondents asked whether they could apply the Enhanced Senior Management Functions, even if they were in the Core tier. We have designed the requirements in the Enhanced tier to work as a package. We have, for example, combined a requirement for Overall Responsibility with a requirement for Responsibilities Maps and the ability to use SMF 18 as an additional 'catch all' function. We don't propose to allow firms to only adopt parts of the Enhanced tier. We think this could obscure accountability if there is only an ad hoc application of the Enhanced rules and make it more complicated for us to supervise firms. We will, however, make it easier for firms to opt into the Enhanced tier as a whole. See page 55 for more detail on this.

### Definitions of Senior Management Functions

Each Senior Management Function has a specific definition that is set out in SUP 10C of our Handbook. Firms should consider the definitions of each SMF when thinking about if and how they apply. For example, the fact that someone has the title of director doesn't mean that they will necessarily hold the Executive Director SMF – they need to meet the definition of an Executive Director in our rules. Similarly, members of an Executive Committee are not automatically Senior Managers. The SMR will only apply if the individuals on the committee meet one of the SMF definitions – for example, an Executive Director.

We confirm that the SM&CR rules allow a firm's Chair to be either Executive or Non-Executive.

### Required functions

The term 'required function' is an existing definition under APR that we proposed carrying over to the SM&CR. It's intended to categorise those functions that we require some types of firms to have under other sections of our Handbook. For example, under the Markets in Financial Instruments Directive (MiFID) II, some firms need to have a Compliance Oversight Function. Some firms don't currently need to comply with these requirements and the SMR doesn't change this. For example, if a firm doesn't need to have someone in the Compliance Oversight or MLRO functions under the APR, they won't need to under

the SM&CR. Firms should already know whether these functions apply to them or not.

### **Holding more than one Senior Management Function**

As set out in CP17/25, if a person performs more than one SMF, they will need to apply for approval for each function. This can be done at the same time and using the same Form A for all functions.

### **Group application**

The SM&CR applies to legal entities, rather than to groups. This is set out in FSMA. As such, we don't have discretion to take a group-wide approach to applying the SM&CR.

Instead, we will allow firms to opt into the Enhanced tier if they wish. We have set out more detail on this in our answer to Q21, in Chapter 6. This should allow groups to take a consistent approach across different legal entities if they wish to. The SM&CR is designed to be proportionate, so firms should only opt up if they are prepared to apply and comply with the extra requirements of the Enhanced tier. There is no expectation on firms to opt into the Enhanced tier for the sake of having more SMFs.

### **Partners**

Only partners that meet the definition of the SMF fall under the Senior Managers Regime. As we set out in CP17/25, we think most partners will have some involvement in managing a firm, although we recognise that this won't be the case in every partnership. It is for firms to decide whether a Partner performs an SMF, based on our rules and guidance in SUP 10C.5. The guidance in the Handbook allows firms to consider other circumstances which may mean a partner does not meet the SMF definition.

If a firm's principal purpose isn't to carry on regulated activities (eg a professional services firm), then the partner function only applies to the extent that a partner has responsibility for a regulated activity. For example, the partner function won't apply if a partner's regulated activities are only incidental to their professional services. Our rules and guidance in SUP 10C.5.19 and 10C.5.20 contain more detail on this.

Before they move from the APR to the SM&CR, we encourage firms to consider whether partners currently approved under CF4 – Partner Function meet the SMF definition. If they don't, then Core firms will need to submit a Form C to cancel that Partner's approval. Enhanced firms can simply leave this individual out of their submitted Form K and the individual's function will not be converted.

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## Senior Management Functions in the Limited Scope tier

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### Feedback received

**Q4: Do you agree with our approach to Senior Management Functions for Limited Scope Firms? If not, please explain why.**

- 2.12** Most respondents supported the list of SMFs proposed for the Limited Scope tier.
- 2.13** However, some considered the criteria for identifying Limited Scope Firms were unsuitable. They suggested that only using regulatory permissions could create an uneven playing field for similar firms who would fall in the Core tier. For example, two firms offering consumer credit could have different permissions, but only one would be Limited Scope. They felt that the conduct risk posed by consumer credit and insurance intermediary firms meant the Core tier should apply to them in all cases.
- 2.14** Other suggestions included expanding the firms under the Limited Scope tier to include all authorised professional firms (APFs), sole traders with up to 4 employees, or owner managed businesses.
- 2.15** Respondents also asked us to clarify how the regime applies to Appointed Representatives.

### Our response

We are implementing the SMFs for Limited Scope firms as consulted on.

#### Criteria for Limited Scope firms

The criteria for Limited Scope firms mirrors how the APR applies at the moment. Under the APR, firms with certain permissions don't need to apply some of the controlled functions.

We think this is proportionate and reflects the different risks and business models of firms with these types of permissions. As these are permissions-based, we don't think this will create an uneven playing field. This is because firms with the same permissions will have the same elements of the SM&CR apply to them.

The fundamental requirements of the SM&CR apply in the same way to almost all firms. Senior Managers are approved by the FCA and are subject to the Duty of Responsibility and the Certification Regime and the Conduct Rules apply to almost all firms. All these elements combined will increase individual accountability and improve standards of conduct, whether a firm falls in the Limited Scope, Core or Enhanced tier.

We considered whether it was appropriate to amend the rules to make all APFs Limited Scope but have decided to maintain the existing criteria for limited application of the APR in the move to the SM&CR. This is because we think only those APFs that do non-mainstream regulated activities should fall in the Limited Scope tier. It is highly unlikely that these firms will need to apply the Certification Regime or Conduct Rules to staff whose roles that have nothing to do with financial services or regulated

activities. However, it is for APFs to make their own assessment of whether or not individuals conduct activities that bring them into the scope of the Certification Regime or Conduct Rules.

All sole traders are already in the Limited Scope tier, even if they have employees.

### Appointed Representatives

There are some changes that will interest Appointed Representatives (ARs) of firms. However, the extension of the SM&CR proposed in CP17/25 doesn't affect individuals and Approved Persons working at ARs. This is because the relevant legislation doesn't give us the power to extend the SM&CR to ARs.

As a result, the provisions of the APR and the relevant APR controlled functions still apply to ARs. Principal firms remain fully responsible for their ARs and networks meeting our rules. Senior Managers at these firms must make sure that this happens.

One exception is for Limited Permission Consumer Credit firms that also act as ARs for other business (eg a limited permission credit broker that is also an AR for insurance business). These firms fall within scope of the extended SM&CR as they are authorised firms.

### Required functions

Limited Scope Firms may need to have a Compliance Oversight Function or MLRO under another section of our Handbook. If they don't, then firms don't have to appoint people to these roles for the SM&CR.

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## Senior Management Functions in the Enhanced tier

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### Feedback received

**Q22:** Do you agree with our proposed Senior Management Functions for Enhanced firms?

**Q23:** Do you agree that this will ensure the most senior people in firms are covered by the Senior Managers Regime, regardless of organisational structure? If not, please explain why.

**2.16** The majority of respondents supported the list of SMFs proposed for the Enhanced tier.

**2.17** Some respondents suggested that we include extra functions within the Enhanced tier. These included:

- Chief Credit Risk Officer
- Chief Information and/or Technology Officer



- Chief Investment Officer
- Head of Human Resources
- all Non-Executive Directors
- a number of sector-specific SMFs
- the Chair of the Conduct Committee

**2.18** There was a concern that the proposals won't work at group level if the subsidiaries of regulated firms don't have independent Board and Committee frameworks. Another respondent suggested that the Enhanced tier does not reflect how the investment management industry operates because these firms will typically be structured by 'function' or 'centre for excellence' on a group rather than entity basis.

**2.19** Some respondents asked us to clarify the difference between functions. For example, differences between the Head of Internal Audit and the Chair of the Audit Committee, and the Senior Independent Director and the Chair.

**2.20** One respondent suggested that we shouldn't make chairs of committees SMFs, as these individuals may already be covered under other SMF roles. We were also asked how the SM&CR applies to Company Secretaries and whether the SMF7 – Group Entity Senior Manager Function can act as Chair of the subsidiaries without separate approval.

**2.21** There was a call for greater alignment between the PRA and FCA definitions of the Chief Operations Function (SMF24). One respondent noted that the PRA currently allow the SMF24 function to be split across a maximum of 3 people. Another respondent suggested that the FCA introduce a PR for operational continuity instead of SMF24 for both FCA and the PRA regimes.

**2.22** We were asked to consider applying the PRA Head of Key Business Area Function (SMF6) to Enhanced Firms as it was suggested this could be more appropriate than SMF18 – Other Overall Responsibility Function. One respondent suggested that we should review the potential overlap between the definition of SMF18 and the Significant Management Function under the Certification Regime. Many respondents requested clarity on the status of the Head of the Legal Function.

**2.23** We were asked whether the SM&CR would force firms to have committees they haven't needed to in the past, as a result of making some Chairs of Committees SMFs.

**2.24** Respondents asked us:

- how the functions of the Chair of the Risk and Audit Committees apply to firms if they don't have Non-Executive Directors
- for more guidance on identifying SMFs where there is a parent/subsidiary relationship between different entities that will come under the SM&CR

**2.25** We received some feedback that updating the Statements of Responsibilities following significant changes was too burdensome.



## Our response

### Additional Senior Management Functions

We have considered the feedback and decided to implement the SMFs for the Enhanced tier as proposed in CP17/25.

We believe using SMF18 for Enhanced firms is the best way to capture individuals with Overall Responsibility for a firm's business area or activity of the firm if they aren't performing another SMF. Many different types of firms come in scope of the FCA's regime, so we think this function gives Enhanced firms the flexibility to apply the SMR without having to specify a series of detailed roles. This allows firms to allocate Overall Responsibility in way that reflects their business models and governance structures in the way they consider is most appropriate.

We believe that the Enhanced tier reflects how investment management firms operate. The regime has been designed so that the functions apply where the firm has someone performing these roles, allowing it to accommodate different business models. SMF18 lets firms apply the SMR to someone with Overall Responsibility for an area if they have not already been captured as a Senior Manager under another specified function.

We would only expect the Company Secretary to be approved as a Senior Manager if they either:

- carry out another SMF
- hold Overall Responsibility for an activity, business area or management function

### SMF18 and Significant Management Function

The Other Overall Responsibility Function (SMF18) will apply if someone has Overall Responsibility for any of the activities, business areas or management functions of an Enhanced firm, and are not already performing another SMF. Firms won't need to apply the Significant Management Function to this individual under the Certification Regime if the management of their business unit comes within their SMF.

The Significant Management Function will apply to senior staff that have significant responsibility for a significant business unit, but who don't have Overall Responsibility for that area in the firm. This may include, for example, an individual managing a significant part of the firm's business, reporting to a Senior Manager.

### Senior Management Function definitions

Our Handbook sets out the definitions of each SMF. We have considered respondents' feedback and believe the definitions clearly distinguish between the different types of functions. For example, the Head of Internal Audit is an executive management role, whereas the Chair of the Audit Committee is an oversight and review role, often performed by a Non-Executive (but not always).



### Director functions

Our Handbook definitions of the Chairs of Committees under SUP 10C.5A don't mandate whether these must be held by Executive or Non-Executive Directors. There may be other requirements or good governance practices that dictate whether these Chair roles are held by a Non-Executive or Executive Director. The SMR is designed to accommodate both.

We recognise that if a Chair role is currently held by an Executive Director, this person will already have been approved under the APR Director Function (CF1). This function will be converted to the Executive Director Function (SMF3) and the individual will need to apply separately for the SMF9 – Chair function. They will need to hold both functions to act as Executive Chair. We still require approval for each of the functions an individual holds as this will make the roles they perform clearer. Firms should include all of an individual's responsibilities in the one Statement of Responsibilities (SoR).

### Groups

Under FSMA we need to apply the SM&CR on a legal entity basis. We recognise that many Enhanced firms will be part of a wider group, so we have designed the regime to accommodate complex groups and matrix structures as much as possible, using, for example, the SMF7 – Group Entity Senior Manager Function.

If a firm's structure prevents it from clearly allocating responsibilities, this suggests there is risk that the firm should address. Because Enhanced firms will need to allocate 'Overall Responsibility', this may mean that some firms will need to formalise existing arrangements between the Board and individuals so that the individual becomes a Senior Manager of the legal entity. For example, if the Board has delegated Overall Responsibility for a function to someone outside the legal entity. We don't want to prescribe what sort of arrangement would be needed to formalise an individual's responsibilities, but this might be through a contract of employment or through formal board delegation.

### Committee Chairs

Firms don't have to set up committees as a result of the SM&CR. It is only where firms have these committees – whether because they are required to under other rules or because they choose to – that the Chair will be a Senior Manager. We have made this clearer in our guidance in SUP10C.

### Chief Operations Function

In CP17/40 we proposed extra guidance in SUP 10C about the areas of responsibility we would expect to be relevant to the Chief Operations Function. This guidance more closely aligns the role with the current SMF24 – Chief Operations Function for banks and insurers.

We have not proposed a PR for operations because this would require all firms to allocate this responsibility in a specific way. The Chief Operations Function gives firms more flexibility to meet our requirements in a way

that reflects their business model and governance structure. It does not require firms to hire someone to fill the Chief Operations role.

In SUP 10C.6B we have set out a number of examples of how the SMF24 – Chief Operations Function could apply. We don't expect or require firms to change how they currently allocate responsibility for managing their internal operations or technology. Instead, the function will clarify how this responsibility is allocated within the firm. We don't insist that all these responsibilities are held by one person and the examples in the guidance recognise this.

### Head of Legal

CP17/25 highlights that the Overall Responsibility requirement currently includes the legal function (ie there is no specific exemption for this function). This policy is under review following industry feedback and the position will be clarified by a further consultation before the rules in this PS come into force. We will make final rules on this issue before the start of the SM&CR for solo-regulated firms.

### Significant changes and Statements of Responsibilities

Every Senior Manager must have a SoR, and update it whenever there is a significant change to their responsibilities. This is a requirement that comes from legislation. To help firms, we have provided some examples in SUP 10C.11.6 of potential changes which could trigger the need to resubmit a Statement of Responsibilities using Form J.

A Senior Manager will need to have one SoR for every firm where they perform an SMF. If a Senior Manager performs multiple SMFs in a single firm, this should all be included in the one SoR. If someone performs SMFs in different firms across a group, they will need one SoR for every firm (legal entity) within it.

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## Prescribed Responsibilities in the Core tier

### Feedback received

**Q5: Do you agree with our proposed list of Prescribed Responsibilities? If not, please explain why.**

- 2.26** In CP17/25, we proposed 6 responsibilities ('Prescribed Responsibilities') that must be given to Senior Managers. We also outlined an additional responsibility for Authorised Fund Managers (AFMs) in CP17/18. These responsibilities are intended to ensure a Senior Manager is accountable for the SM&CR and for key conduct and prudential risks.
- 2.27** The majority of respondents agreed with our proposed list of Prescribed Responsibilities (PRs). Some suggested that we use the same PRs for both Core and Enhanced firms.
- 2.28** There were some concerns with our proposals for the PR for informing the governing body of legal and regulatory obligations. Respondents thought that it was



inappropriate to assign this responsibility to one individual. In many firms, this is divided across different individuals such as the Company Secretary, the General Counsel and the Compliance Officer.

- 2.29** Several respondents felt that in small firms the CEO and Compliance Oversight Function will be given most of the responsibilities. We were asked to clarify whether PRs should be allocated to the most appropriate Senior Manager that sits on the Board. Similarly, some respondents asked us to expand on our expectations of sharing PRs.
- 2.30** Some respondents suggested that we widen the list of PRs to cover areas such as culture, complaints handling and risk management.
- 2.31** There were requests for clarity about whether firms need to assign the PR for the Certification Regime if firms have no Certified Staff. One respondent asked if the PR for Conduct Rules extended to Appointed Representatives, or whether it is limited to 'own staff' of a firm.

## Our response

### Legal and Regulatory obligations PR

We have considered the feedback we received on the PR for legal and regulatory obligations. We agree with respondents' concerns that this may not be appropriate to allocate to one Senior Manager in solo-regulated firms. We have therefore removed this PR from our near-final rules. Under the Conduct Rules, Senior Managers must already ensure that the business area for which they are accountable complies with the relevant requirements and is controlled effectively. We consider this is adequate to balance out any risks from removing this PR.

### Who to allocate PRs to

It is for firms to consider which Senior Manager is the best person to hold each PR. PRs should not be shared across different lines of defence.

For example, one of the PRs that must be allocated by Core firms is responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime. If an SMF3 – Executive Director of a firm is accountable for the firm's policies and procedures on financial crime, we would expect the PR to be allocated to that individual, even if the firm's compliance function also supports by providing oversight of these policies and procedures.

In this scenario, we would not expect the PR to be split or shared between the SMF3 – Executive Director and the SMF16 – Compliance Oversight. If the SMF16 – Compliance Oversight wishes to specify that their areas of responsibility include oversight of the firm's policies and procedures on financial crime, this could be included in the "Supplementary Information" section of their SoR.

When allocating PRs firms will need to think about which Senior Manager is the most senior person accountable for an issue. For example, if the person performing the SMF17 – MLRO is not responsible for all aspects

of financial crime, then the PR for financial crime should not be allocated to this person. It must instead be allocated to the Senior Manager accountable for all financial crime matters.

We confirm that Core firms are not required to allocate PRs to only those Senior Managers who sit on the Board.

### **Does the Certification PR apply if there are no Certification Functions?**

We recognise that there will be firms without any Certified Staff. However, the PR for the firm's performance of its obligations under the Certification Regime still needs to be allocated. This is because the firm still needs to identify whether there are employees carrying out Certification Functions. There should be a Senior Manager accountable for this.

### **Dividing and Sharing Prescribed Responsibilities**

We don't consider that dividing and sharing PRs should be a common practice across firms. But we do recognise that there might be limited circumstances where this can happen. Firms must be able to show that this is appropriate and justifiable and that it doesn't leave a gap or create an overlap in responsibilities.

### **Additional Prescribed Responsibilities and 'Culture' PR**

Most responses to the consultation agreed with our proposed list of PRs. As such, we don't propose applying any additional PRs to Core firms. We think this is proportionate and focuses accountability on key conduct and prudential risks.

We haven't introduced a PR for culture as we consider every individual in a firm to be accountable for the firm's culture, from the governing body down. This reinforces our own focus on culture and governance, and is one of our top priorities for firms.<sup>4</sup>

In addition, all Senior Managers have a particular role to play in driving an appropriate culture and should take accountability for their actions, shaping the firm's culture by taking accountability for their own behaviour and taking reasonable steps to manage the behaviour of those in their area of responsibility.

Culture will also be reinforced by applying the Conduct Rules throughout every level of a firm. The Conduct Rules aim to drive up standards of individual behaviour in financial services and shape a firm's culture, standards and policies as a whole.

We view this responsibility holistically. So we also think that Boards should be collectively responsible for setting and monitoring firms' cultures. Boards need to ensure culture remains high on their agenda and be able to demonstrate how they satisfy themselves that the firm's culture does not cause harm.

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4 In March 2018 we published a Discussion Paper on transforming culture in financial services. This is part of our drive to promote a discussion and consensus on the essential features of a healthy culture within financial services. For more information, read DP18/2 – 'Transforming Culture in Financial Services'.



### Scope of the Conduct Rule Prescribed Responsibility

The scope of individuals covered by the PR for the Conduct Rules is the same as how the Conduct Rules apply to the firm. We have addressed the scope of staff under the Conduct Rules in Chapter 5.

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## Prescribed Responsibility for Authorised Fund Managers

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### Feedback received

**Q6: Do you agree with our proposed Prescribed Responsibility for AFMs as set out in CP17/18? If not, please explain why.**

- 2.32** In CP17/25, we proposed a PR for Authorised Fund Managers (AFMs). CP17/18 described the responsibility for an AFM's value for money assessments, independent director representation and acting in investors' best interests.
- 2.33** Respondents agreed with our proposed PR. Some requested clarity on the allocation of this PR. They asked if it should be allocated to an Executive or a Non-Executive Director. They also requested clarity on whether this PR should be allocated to the SMF9 – Chairman.
- 2.34** Some respondents felt that introducing the PR would result in Compliance Officers challenging less in owner-managed firms, because this PR can only be exercised by senior executives.
- 2.35** A small number of respondents suggested an additional PR for managing conflicts of interest where investment management companies manage investments for retail clients, institutions or other entities within their group.
- 2.36** One suggestion was that we split this PR into two separate PRs to cover the following two responsibilities:
- AFMs' value for money assessment and acting in the investors best interest
  - appointing an independent director

### Requests for clarification

- 2.37** One respondent asked whether the PR for value for money, independent director representation and acting in investors' best interests would only apply to AFMs.
- 2.38** Several others queried how much the value for money process is a collective Board responsibility, or an individual one.
- 2.39** One respondent asked if the individual holding the SMF14 – Senior Independent Director Function can hold the PR for an AFM's value for money assessments, independent director representation and acting in investors' best interests.

## Our response

We set out our intention to implement the AFM PR in PS18/8.<sup>5</sup> This PR will take effect from the start of the extended SM&CR.

The AFM PR forms part of remedies coming out of the Asset Management Market Study. It only applies to Authorised Fund Managers and, where the firm has an individual approved in the SMF9 – Chair function, the PR should be allocated to this individual. Where an AFM doesn't have an SMF9 – Chair, they must assign the PR to another appropriate Senior Manager. The Asset Management Market Study remedies assign all three elements of this PR to the Chair. We don't consider it appropriate to sub-divide them.

In CP17/18, we noted that there are benefits to appointing either an executive or independent member of the board as Chair. We consulted on rules that would allow an AFM Board to make this decision itself. The SMF9 – Chair role can be either executive or non-executive.

In PS18/8 we explained that value for money assessments should not focus purely on costs. Fund charges should take into account the context around the whole service provided.

Managing conflicts of interest is important and should be included in a Senior Manager's SoR if it forms a significant part of their role.

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## Prescribed Responsibilities in the Enhanced tier

### Feedback received

**Q24: Do you agree with our proposals for Prescribed Responsibilities in Enhanced firms? If not, please explain why.**

- 2.40** CP17/25 proposed applying an additional seven PRs for Senior Managers in Enhanced firms, on top of the Core PRs.
- 2.41** The majority of respondents supported the list of PRs proposed for Enhanced firms.
- 2.42** Some respondents suggested that we allow individuals holding the SMF18 – Other Overall Responsibility to be allocated PRs other than CASS compliance.
- 2.43** Several respondents didn't think that firms should allocate the PR for developing and maintaining the firm's business model to a single individual. They argued that this should be a collective responsibility allocated to the Board. They asked us to explain how we will measure reasonable steps for this PR.
- 2.44** One suggestion was to create a single set of PRs for both Core and Enhanced Firms. The same respondent recommended aligning PRs for solo-regulated firms, insurers

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<sup>5</sup> PS 18/8 – Asset Management Market Study remedies and changes to the handbook



and the PRA list. This would create a common set of PRs across both solo and dual-regulated firms.

- 2.45** There were some questions over the oversight PRs and the PR for managing the firm's internal stress-tests. Respondents asked if they would apply to Enhanced firms that are exempt from the relevant requirements in the SYSC section of our Handbook.

### Our response

We are implementing the PRs for Enhanced firms as consulted on.

#### Overall Responsibility and PRs

In CP17/25, we proposed applying an 'Overall Responsibility' requirement to all Enhanced firms. This means that an Enhanced firm will need to ensure that every activity, business area and management function has a Senior Manager with Overall Responsibility for it. This is to prevent unclear allocation of responsibilities that could result in issues falling between the cracks.

The most senior person with Overall Responsibility might already be an existing Senior Manager. Our proposals noted that we expected this to be the case most of the time. As we didn't receive feedback that disagreed with this, we are maintaining the position as consulted on and consider it appropriate to restrict the allocation of other Prescribed Responsibilities (other than the CASS compliance) to the SMF18. This will reinforce a culture of accountability and encourage firms to identify who actually has Overall Responsibility at the most senior level, for each of its activities, business areas and management functions.

#### Prescribed Responsibility for developing and maintaining the firm's business model

The specific accountabilities of individual Senior Managers add to and complement the collective responsibility shared by directors as members of the Board. Ultimately, the Board remains collectively accountable for developing and maintaining the firm's business model. The PR for the business model provides further focus on this and ensures that this does not 'fall between the cracks'. We expect the Senior Manager with the PR for developing and maintaining the firm's business model to give directors the time and opportunity to contribute to develop the firm's business model, and to provide appropriate challenge, before final sign-off by the Board.

#### Prescribed Responsibilities for both Core and Enhanced firms

We have deliberately taken a different approach to the requirements that apply to Core firms and Enhanced firms. This is because of the breadth of the population that will now come under the extended SM&CR. Additional PRs apply to Enhanced firms to reflect the specific risks in relation to governance in larger firms. For example, a number are designed to be held by Senior Managers that chair key committees. We don't believe it would be proportionate or practical to apply the Enhanced PRs to all Core firms.





### **Prescribed Responsibilities connected to underlying requirements**

There are some PRs that only apply if the firm is subject to the underlying requirement in SYSC. This is set out in the description of the PRs in SYSC 24.2.6. For example, the PR for managing the firm's internal stress tests only applies to a firm to which SYSC 20 applies. In addition, the CASS PR only applies to a firm to which CASS applies.

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## 3 Certification Regime

### Who should read this chapter?

All firms should read this chapter.

### Our proposals

- 3.1** In CP17/25 we proposed 8 Certification Functions, building on existing functions in the Approved Persons Regime. These functions apply to all firms where they have individuals performing the roles.
- 3.2** The Certification Regime covers people who aren't Senior Managers, but whose jobs mean they can have a significant impact on customers, the firm or market integrity. We won't approve these individuals, but firms will need to check and confirm ('certify') at least once a year that these people are suitable to do their job. This is a requirement under FSMA.

**Table 3: Certification Functions**

Certification Function	Overview
<b>Significant Management Function (current CF29)</b>	These individuals perform functions that would have been Significant Influence Functions under the APR.
<b>Proprietary traders (also covered by current CF29)</b>	These important roles can seriously affect how the firm conducts its business.
<b>CASS Oversight Function (current CF10a)</b>	
<b>Functions subject to qualification requirements</b>	This includes, for example, mortgage advisers, retail investment advisers and pension transfer specialists. The full list is set out in our Training and Competence Sourcebook.
<b>The client dealing function</b>	<p>This function has been expanded from the CF30 function under APR to apply to any person dealing with clients, including retail and professional clients and eligible counterparties.</p> <p>This will cover people who:</p> <ul style="list-style-type: none"> <li>advise on investments (other than a non-investment insurance contract) and perform other related functions, such as dealing and arranging</li> <li>deal, as principal or agent, and arrange (bring about) deals in investments</li> <li>act in the capacity of an investment manager and all functions connected with this</li> <li>act as a bidder's representative</li> </ul>

Certification Function	Overview
<b>Anyone who supervises or manages a Certified Function (directly or indirectly), but isn't a Senior Manager</b>	This will ensure that people who supervise certified employees are held to the same standard of accountability. It also ensures a clear chain of accountability between junior certified employees and the Senior Manager ultimately responsible for that area. For example, if a firm employs a customer-facing financial adviser, every manager above them in the same chain of responsibility will have to be certified (until the Senior Manager approved under the SMR is reached).
<b>Material Risk Takers</b>	The concept of Material Risk Takers (also known as Remuneration Code staff) already exists for firms under our remuneration rules (SYSC 19). They are a category of staff that all firms under AIFMD, UCITS, IFPRU and BIPRU are already required to identify under our remuneration regime. These firms need to consider all types of risk when identifying their Material Risk Takers. This includes prudential, operational, conduct and reputational risks. All of these Material Risk Takers will be covered by this certification function.
<b>Algorithmic trading</b>	This function includes people with responsibility for: <ul style="list-style-type: none"> <li>• approving the deployment of a trading algorithm or a material part of one</li> <li>• approving the deployment of a material amendment to a trading algorithm or a material part of one, or the combination of trading algorithms</li> <li>• monitoring or deciding whether or not the use or deployment of a trading algorithm is or remains compliant with the firm's obligations</li> </ul>

**3.3** We also asked for feedback on whether individuals performing these functions should appear on a public register.

**3.4** This chapter sets out the feedback received to our proposed:

- Certification Functions
- territorial application of the Certification Regime

**3.5** We included feedback on whether details of Certified Staff should be included on a public register in the proposals made in CP18/19 - 'Introducing the Directory'. We don't address it here.

## Certification Functions

### Feedback received

**Q7:** Do you agree with the functions we have proposed making Certification Functions? If not, please explain why.

**Q8:** Are there any other functions that we should make a Certification Function?

**3.6** The majority of respondents supported our proposed Certification Functions.



- 3.7** A number of respondents felt that the breadth of individuals in scope of the Certification Regime was not proportionate. One respondent suggested that the term 'significant harm function' should be replaced with 'significant responsibility function'.
- 3.8** Others noted that the new definition of the Client Dealing Function could extend the Certified population to include relevant junior and call centre staff. Some suggested that the Certified population should only capture current CF30s or other roles such as mortgage advisers, staff involved in designing products sold to retail investors, and anyone approving financial promotions.
- 3.9** There was a concern that certain roles were excluded from the Certification Regime. Respondents suggested including people handling complaints and corporate finance activity. They proposed a number of additional Certification Functions. We were asked to clarify whether a range of roles, including those at Appointed Representatives, were in scope of the Certification Regime. Commonly suggested functions included:
- Head of HR
  - Complaints Handling
  - Head of Product Design
  - Non-SMF Partners
- 3.10** Several respondents commented that the definition of the term 'Material Risk Taker' (MRT) differs under UCITS, AIFMD and CRD, and suggested aligning these. Another said that the MRT definition can cause the MRT populations to vary each year.
- 3.11** Some respondents wanted us to provide guidance on how firms should decide if someone is performing the Significant Management Function.
- 3.12** Concerns were raised about the practical implementation of Certification in firms where regulated activities form a small part of the overall business. Another respondent asked whether individuals undertaking unregulated activities should be certified.
- 3.13** More information was requested on how a firm should decide whether someone should be a Senior Manager or certified. Some respondents felt that this is particularly difficult where they have flat organisational structures. We were also asked whether contractors and secondees should be certified.
- 3.14** Another respondent asked that the 4 week period for emergency appointments to certification functions be extended to 12 weeks. This would then align with Senior Managers. Another suggested a transitional period for firms to certify staff, noting that some firms would have a large number of individuals to certify.

#### **Requests for clarification**

- 3.15** Respondents asked us for more information on a number of points:
- how Certification would apply to smaller firms
  - how to apply the Algorithmic Trading Function to firms that use a trading algorithm provided by another firm

- if ongoing Certification requires the same depth or detail as initial Certification
- whether firms are required to certify individuals who perform multiple functions across a group multiple times
- how Training and Competence rules, which allow trainees to undertake a role under supervision should be reconciled with the certification requirements

### Our response

We are implementing the Certification Regime as consulted on.

#### The Certification Regime

The term 'Significant Harm Function' comes from FSMA. It describes a person performing these functions as someone 'involved in one or more aspects of the firm's affairs, so far as relating to a regulated activity, and those aspects involve, or might involve, a risk of significant harm to the firm or any of its customers'. A 'specified Significant Harm Function' is a Significant Harm Function that has been specified by the FCA in rules. The Certification Regime applies to specified Significant Harm Functions. In our Handbook, we have changed the term to 'FCA Certification Function' instead.

The regime only applies if the firm has individuals performing a Certification Function, where it relates to a regulated activity. It applies to individuals within a regulated firm who meet the definition of one or more Certification Functions. If a Senior Manager performs one of these roles and it isn't related to their SMF, then they will also need to be certified.

For example, if someone is approved as an SMF and also meets the definition of the Client Dealing Function under the Certification Regime, they must be certified for the latter function. In practice, once we have approved someone as an SMF, firms may decide to assess the individual's fitness and propriety for both roles in one assessment on an ongoing basis or at least once a year.

Certification is intended to ensure that firms assess their staff as fit and proper on a regular basis. It is for firms to decide the best way of meeting the requirements. Firms don't need to adopt the same criteria for fitness and propriety regardless of a person's seniority or role. We expect firms to act in a proportionate manner. This means that, for example, where a trainee retail investment adviser practises under supervision, they can be certified as fit and proper for the Client Dealing Function on the condition that they still meet basic standards and are supervised.

We considered extending the 4 week emergency period to 12 weeks but have decided not to amend this rule. The 12 week period for Senior Managers reflects that processing a new approval takes time. Certification Functions don't have to be approved by us, so firms should be able to complete the relevant certification processes in 4 weeks.



### Scope of the Client Dealing and Algorithmic Trading Functions

The scope of the new Client Dealing function is broader than the CF30 – Customer Function under the APR. It covers anyone advising or dealing for clients, including retail and professional clients and eligible counterparties. This means that there will be staff who were not previously CF30s, but who will be performing the Client Dealing Function. It does not cover advising or arranging non-investment insurance products.

The Algorithmic Trading Function covers individuals with responsibility for:

- approving the deployment of a trading algorithm or a material part of one
- approving the deployment of a material amendment to a trading algorithm or a material part of one, or the combination of trading algorithms
- monitoring or deciding whether or not the use or deployment of a trading algorithm is or remains compliant with the firm's obligations

If firms use a third party algorithm, there must be someone in the firm accountable for the decision to use the algorithm, and for how the algorithm behaves on an ongoing basis. This may be the same person. Firms must be clear on this and who these people are, whether they develop their own algorithms or rely on third parties.

### Additional Certification Functions

We have considered whether it would be appropriate to add extra Certification Functions. We have decided not to change the scope of this part of the regime. Many of the functions suggested by respondents are already included in the regime. For example, our guidance on the Significant Management Function specifically considers that this could include a senior person in human resources or complaints handling.

We were also asked to consider applying the Certification Regime to non-SMF Partners. Under FSMA the Certification Regime can only apply to employees and we are therefore unable to do this because partners are unlikely to meet the definition of 'employee' in FSMA 63E(9). The definition can, however, cover secondees and contractors. If they are performing Certification roles they must be certified.

### Clarifications

The definition of 'Material Risk Taker' (MRT) is taken from European legislation on remuneration. Firms subject to these rules are already required to identify their Material Risk Takers. This is in line with these existing requirements and European legislation, and as such we don't intend to change this.

Firms and the appropriate Senior Manager are responsible for ensuring that there are effective certification processes. They must be satisfied that they have taken reasonable steps to comply with our requirements for fitness and propriety. This will include determining whether, in order to meet our requirements, ongoing certification needs to be as thorough as the assessment done at appointment. Individuals who perform Certification Functions across multiple group entities can be certified in a single process, but the assessment must take into account the performance of all the roles in the different entities.

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## Certification – Territorial Application

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### Feedback received

**Q10: Do you agree with our proposed territorial limitation for the Certification Regime? If not, please explain why.**

- 3.16** Respondents broadly agreed with the proposal but highlighted the differences in territorial scope between Senior Managers and Certification Functions. Others were concerned about the difficulties of applying and monitoring the '30 day' rule (where individuals should be certified if they work more than 30 days a year in the UK).
- 3.17** Some respondents were concerned that employees of a non-UK firm to which a UK firm has delegated a service would be captured. They felt this would be disproportionate. Others suggested extending the territorial scope of the Certification Regime.
- 3.18** Firms asked us to clarify if the Certification Regime applies to staff based abroad, including individuals involved in client dealing.

### Our response

We intend to apply the territorial scope of the regime as proposed. Firms must ensure that employees are certified if they perform a certification role and are either based in the UK (or spend more than 30 days a year in the UK) or deal with UK customers. There is no territorial limitation if the person is performing the MRT Certification Function for a UK firm. This is because, by their nature, Certification Functions are important roles that can cause harm. If staff are moving in and out of the UK performing these roles, it is important that they meet the necessary standards, and the 30-day window applies this principle proportionately to reflect short-term moves within firms and groups in and out of the UK. These standards help protect UK consumers, the firm and the market.

In CP17/25, we provided a flow chart summarising the application of the Certification Regime to overseas staff. Firms should refer to SYSC 27.3 for more information on territoriality.



If a firm outsources a service to an overseas entity, the application of the Certification Regime will depend on the nature of the outsourcing agreement. Generally, such individuals would not be in scope of the Certification Regime unless they meet the FSMA definition of an 'employee' of the firm outsourcing the service. This would include any individuals seconded to the firm from the outsourcing provider.

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## CASS Responsibilities

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### Feedback received

**Q11: Do you agree with the approach we have proposed to allocating CASS responsibilities? If not, please explain why.**

- 3.19** Most respondents agreed with our approach of allocating the CASS PR. Some disagreed with our proposal to include the CASS Operational Oversight Function (current CF10a) under the Certification Regime. In their view, the CASS Operational Oversight Function should be kept as an approved function. They felt that to do otherwise could reduce firms' Boards attention on the importance of CASS compliance.
- 3.20** A few respondents disagreed with our example that the CASS PR will often be allocated to the Senior Manager undertaking the Compliance Oversight role. They feel this contradicts previous FCA advice that the CASS and Compliance Oversight should be performed separately.
- 3.21** One respondent asked us to clarify whether firms can allocate the CASS oversight function to multiple employees to allow for segregation of duties.
- 3.22** Some respondents asked how the CASS requirements under the SM&CR worked with MiFID.

### Our response

In CP17/25, we didn't propose making the current CF10a or CASS Operational Oversight Function an SMF. This is because firms currently assign responsibility for client assets oversight in different ways. In some cases, the person performing this role may not meet the definition of a Senior Manager. For example, in larger firms the person familiar with the day-to-day operation of client money calculations may not be senior enough to influence strategic decisions around the budget and resources dedicated to CASS. In smaller firms they may be the same person.

We have made Overall Responsibility for compliance with CASS a PR. This is because we want to ensure that there is always a Senior Manager with ultimate responsibility for overseeing a firm's CASS obligations. This PR applies to all firms subject to CASS. As the person with day-to-day responsibility is not always a Senior Manager, the CASS Operational



Oversight Function forms part of the Certification Regime. This means that the person performing the CASS Operational Oversight Function will always be either certified or a Senior Manager.

Firms are not allowed to allocate the CASS Operational Oversight Function to more than one person, unless it is done as part of a job-share arrangement. This is governed by our rules in the CASS module of the Handbook. We expect firms to maintain a permanent and effective compliance function that operates independently from the firm's business areas. The aim of the SM&CR is not to change how firms are organised or structured. Firms must decide who, in the context of the firm's business model, is the most appropriate Senior Manager to be allocated the CASS PR.

The SM&CR allows a firm to allocate both the CASS Prescribed Responsibility (in SYSC 24) and the CASS Operational Oversight Function (in CASS 1A) to a single Senior Manager. Where this is the case, a firm can allocate additional responsibilities to this person only if:

- it can satisfy itself on reasonable grounds that this person is still able to discharge his/her CASS oversight responsibilities effectively, and
  - the firm's full compliance with CASS won't be compromised
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## 4 Fit and Proper Requirements

### Who should read this chapter?

All firms should read this chapter.

### Our proposals

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- 4.1** In CP17/25 we proposed new rules for how firms should assess whether people are fit and proper to do their job. This includes Senior Managers, Non-Executive Directors and individuals under the Certification Regime. The new rules include:
- a requirement on firms to assess, at least annually, whether individuals in certain roles are fit and proper for their role (except non-approved Non-Executive Directors)
  - the evidence we expect firms to gather when making their assessment, including requirements to:
    - carry out criminal records checks as part of an application for approval of a Senior Manager
    - obtain regulatory references for Senior Managers, Certification Staff and non-approved Non-Executive Directors before appointing them
- 4.2** This chapter sets out the feedback we received on these topics and our response.

### The Fit and Proper Test

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#### Feedback received

**Q12: Do you agree with our proposed approach to rules and guidance on the fit and proper test? If not, please explain why.**

- 4.3** Most respondents agreed with our proposals on the fit and proper test. A few asked us to clarify how firms should conduct the annual assessment. We were also asked for additional guidance to ensure consistency across the industry.
- 4.4** Some respondents were concerned about the administrative burden on small HR functions. A few suggested that the FCA should conduct the annual fitness and propriety assessments, rather than firms. Some commented that it would be difficult to conduct fit and proper assessments on Non-Executive Directors as they only attend a few Board meetings each year. There were also questions about how fit and proper assessments apply to sole traders, and whether our rules mean they would need to self-certify.

- 4.5** One respondent suggested that smaller firms should only be required to conduct the assessment every 3 years, rather than every year.
- 4.6** Some respondents thought that we should use this opportunity to link and consolidate various regulatory competence requirements. These could include MIFID II, IDD, Board competence and guidelines issued by European Supervisory Authorities. Some felt that we should change the existing rules and guidance on fit and proper assessments and training and competence to improve standards of individual behaviour. They also suggested making it compulsory to undertake continuous professional development of skills and knowledge.
- 4.7** One respondent was concerned that our fit and proper requirements may not support the recruitment of diverse candidates in leadership positions. There was also a concern this could discriminate against those with criminal convictions or older staff members with experience rather than formal training.

### Our response

We are implementing the fit and proper requirements as consulted on.

A key feature of the SM&CR is to reinforce that firms need to take more responsibility for their staff being fit and proper to do their jobs. This requirement stems from legislation and followed recommendations from the Parliamentary Commission on Banking Standards (PCBS).

Similarly, FSMA, rather than FCA rules, requires firms to assess fitness and propriety of their Senior Managers and Certification Staff at least annually. So we don't have discretion to change this. It is for firms to decide how best to carry out their fit and proper assessments, based on the rules, guidance and evidence requirements set by the FCA. We haven't provided prescriptive guidance on how firms should carry out these assessments as we consider firms best placed to decide how their internal employee assessments should be carried out.

Firms should already have processes in place to assess the fitness and propriety of their employees and to monitor and record information about employees' performance and suitability. They must also ensure that employees have the skills, knowledge and expertise necessary for their responsibilities, as required by the Competent Employees Rule and corresponding EU rules.

We appreciate that firms must meet different regulations and requirements when considering the competence and behaviour of their staff. These can come from different regulatory bodies and may focus on the same objective, such as ensuring employees' fitness and propriety. However, as these requirements are often specific to a firm's activities or business and are drawn from EU legislation, we have not consolidated them into the SM&CR framework, which applies to all firms.

We don't consider that our expectation for people to be fit and proper will discriminate against the recruitment of diverse candidates. In our



view, the most important considerations that are relevant to fitness and propriety include:

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

We don't think that recruiting with these considerations in mind should affect staff diversity and they provide important protections.

In addition, conviction for a criminal offence won't automatically mean that someone isn't fit and proper. We have guidance in FIT that makes it clear that this should be a case-by-case assessment.

We haven't introduced any new qualification requirements in the SM&CR or amended existing ones; these are all existing requirements. For those roles that do have specific qualification requirements, we think this is necessary and appropriate to ensure consumer protection.

In practice, there will be few cases where sole traders will need to conduct a fit and proper assessment on themselves. This is because neither the governing SMFs nor the Certification Regime apply to a sole trader themselves, as opposed to their employees. If a sole trader does need to conduct a fit and proper assessment, the guidance in FIT will still be relevant. They won't need the assessment to be verified by someone else. This is identical to the way the current APR operates for sole traders.

Overall, we consider that applying the SM&CR as a package will drive up standards of individual behaviour and accountability and the assessments of whether people working in financial services are fit and proper are important parts of making this happen.

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## Criminal Records Checks

### Feedback received

**Q13: Do you agree with our proposed requirements on criminal records checks? If not, please explain why.**

- 4.8** The majority of respondents agreed with our proposals. However, several questioned whether the proposals were consistent with privacy and data protection laws. Some said that Limited Scope Firms should not be required to conduct criminal records checks. On the other hand, several respondents thought that we should extend the criminal records checks to all Certification Functions. They argued this was appropriate as these are customer-facing functions, and firms are limited in the information they can receive on individuals who are not Senior Managers.

- 4.9** Several respondents suggested that we shouldn't ask for criminal records checks if someone is moving roles within a firm. Some asked for clarity about how often a criminal records check should be conducted. One respondent asked if a criminal records check needed to be completed before an employee started with a firm.
- 4.10** We were also asked to explain when firms should make checks on individuals who have worked overseas for any length of time, as this this can be a burdensome process.
- 4.11** Some respondents asked what types of convictions and offences would bar someone from working in financial services. One suggested that there should also be checks on whether a director has ever been disqualified or has an undischarged bankruptcy. Respondents also asked if they need to notify us if an employee provides false information on a form.
- 4.12** Some respondents asked whether the Disclosure & Barring Service (DBS) had the capacity to undertake these criminal records checks.
- 4.13** One respondent asked how these rules apply to not-for-profit firms.

## Our response

### General Data Protection Regulation (GDPR)

We don't think it's appropriate for us to give detailed guidance on complying with the GDPR and the UK's Data Protection Act 2018. However, we do want firms to be confident that they can comply with both the SM&CR and data protection laws. We don't think these obligations conflict, as they acknowledge that employers have legal obligations to process sensitive personal data, such as criminal records. Firms may find it helpful to read Article 6 of the GDPR and Schedule One of the UK's Data Protection Act to understand more.

### Criminal Records Checks

Carrying out criminal records checks is an important tool for firms when assessing the fitness and propriety of Senior Managers, including as part of preparing the application to us for their approval. Almost all respondents agreed with this. We will, therefore, require a criminal records check for every application for a Senior Management Function, even if that person already performs a role in the firm or the group.

We only require a criminal records check when a candidate is applying for an SMF. There is no requirement for annual criminal records checks, although firms can choose to do this as part of their ongoing fit and proper assessments. We have made this clearer in our Handbook in SUP 10C.10.23A. Given the number of staff who may fall in the Certification Regime, we don't think it is proportionate to require criminal records checks for these roles.

If a candidate for an SMF has spent considerable time overseas in the last six years, firms should consider carrying out a criminal records check in those particular jurisdictions. We provide guidance in the Handbook, but it is up to the firm to decide if this is appropriate. Candidates themselves



are asked to disclose all related matters, whether in the United Kingdom or overseas, in our forms.

Guidance in FIT makes it clear that conviction for a criminal offence won't automatically mean someone can't be considered fit and proper – this is a case-by-case assessment. If a candidate provides false information on a form, a firm should consider this when deciding on the individual's honesty, integrity and reputation. If someone who is currently employed by the firm provides false information, this could also be a breach of the Conduct Rules. Firms need to report breaches of Conduct Rules resulting in disciplinary action to us annually, using REP008 on GABRIEL.

We confirm that FIT already contains guidance that firms should consider whether a person has ever been disqualified from acting as a director or has an undischarged bankruptcy.

While we appreciate that a firm's hiring needs can be urgent, we think that the criminal records check is one of the key checks that a firm needs to make in order to assess a Senior Manager as Fit & Proper. In order for a firm to submit an application for a Senior Manager to be approved, the criminal records check must be complete.

We have discussed our requirements in this area with the Disclosure and Barring Service (DBS), as well as the likely increase in requests for criminal records checks it will receive.

#### **Not-For-Profit firms**

If a not-for-profit firm is in scope of the SM&CR and has someone performing an SMF, then criminal records checks apply, whether or not that person is remunerated for their role.

However, SMFs don't apply to not-for profit debt advice firms under our rules.

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## **Regulatory References**

### **Feedback received**

**Q14: Do you agree with our proposed requirement of regulatory references? If not, please explain why.**

- 4.14** Most respondents agreed with our proposals for regulatory references, but asked for clarification on some practical issues. These included:
- how firms should approach reportable matters where the relevant individual has left the firm
  - how firms should approach circumstances where an individual's current or previous employer won't provide a regulatory reference

- whether regulatory references would need to be requested before an individual has handed in their notice

**4.15** There were also several requests for guidance on what should be included in regulatory references. Some firms suggested that additional specific information should be included in the regulatory reference template.

**4.16** Respondents pointed out that employment legislation can make some firms reluctant to disclose relevant information on candidates. A few firms asked us to explain how regulatory references interact with legal requirements. These include employment law, GDPR, laws such as the Rehabilitation of Offenders Act, managing conflicts of interest and any pre-existing contracts, such as confidentiality requirements.

**4.17** A few respondents noted that providing and getting regulatory references would lead to increased costs and workloads for firms.

**4.18** Some wanted us to create a portal or public register of references, through which firms lodge confidential references and update them as necessary. One respondent recommended that we set up a tribunal process to address cases of unfairness around regulatory references. This could correct simple cases of unfairness or refer more complex disputes to the courts.

**4.19** Many firms expressed concern that Certified Staff may omit previous employers from their records, rather than receive a poor regulatory reference.

**4.20** We were asked for guidance on how the regulatory reference requirements apply to sole traders.

**4.21** One person asked if firms are required to respond to references from third parties, or respond to speculative regulatory references (such as from recruitment agencies) before an individual had been put forward for a role.

### Our response

We are implementing our rules on regulatory references as consulted on.

Feedback has shown that there were some misunderstandings about the changes we have proposed to our regulatory reference rules. Firms are already required to provide all information relevant to the fit and proper assessment when they get a request for a regulatory reference. The main changes proposed by CP17/25 were that firms must:

- request a reference from all previous employers in the past six years for Senior Managers, Certification Functions and non-approved Non-Executive Directors (except in Limited Scope firms)
- provide references using a standard template
- update references if new information comes to light



In addition, firms are already required not to enter into non-disclosure agreements that could affect their ability to disclose the information required by regulatory references.

### **New information after an employee has left the firm**

If new information about someone's conduct comes to light after they have left a firm, the rules require the firm to update their new employer. However, to ensure fairness, these rules are limited. The standards that apply to an updated reference are the same as apply to the original reference based on what firms reasonably consider to be relevant. The test is whether the new information arising would have caused the providing firm to have written the original reference differently had the information been known at the time, and the new information would change an assessment of the fitness and propriety of the individual.

Secondly, firms only need to update their new employer if that firm is regulated under FSMA, and the individual still works there. In practice this will need to be checked with the firms that were last sent references.

The updating requirement applies:

- to any notice period served between providing a reference and the individual leaving a firm
- for ex-employers, six years from the date the individual left the firm

Also, misconduct that occurred more than six years ago, but which came to light within six years from the date the individual left the firm, may require disclosure if that misconduct is serious.

This avoids data protection concerns about sharing personal information with firms that may not have a legitimate reason for receiving such information. We think this requirement is a valuable tool to encourage good conduct. In practice, such updated disclosures are likely to be infrequent. Nonetheless, on the occasions that they are necessary, they are likely to provide important information to the current employer.

### **Timing of references**

We recognise that there may be situations where a candidate has not told their current employer that they are leaving. However, a fit and proper assessment can't be made until the new firm can confirm that its due diligence is complete. This includes getting a reference from the candidate's previous employer. For Senior Managers, firms should ideally get references before they submit an application for approval. However, we know that there will be circumstances where this may not be possible. In these cases, firms can get references no later than one month before the end of the application process. For Certified Staff, the firm must receive the references before they issue the certificate.

### **Cooperation between firms**

Any FCA-authorized firm is already required to respond appropriately to reference requests. Our Handbook guidance states that we expect regulated firms to do so within 6 weeks. While references



from non-financial services firms are likely to be general employment references, they can still provide important information to the hiring firm. In cases where it is difficult to get references, such as when the firm providing the reference is overseas, firms requesting the references should take all reasonable steps to obtain it.

### **Role changes**

There may be cases where someone changes roles within a group, for example if they are initially hired into a Certification Function and then move into an SMF in another entity. In these cases, a firm doesn't need to request a regulatory reference from the original entity if the group maintains centralised records or alternative means of sharing existing relevant information on the fit and proper assessment of candidates.

SYSC 22.7.8G contains guidance on whether firms need to ask third-party (non-group) employers to reissue a reference where a relevant individual moves between group entities.

### **Interaction with employment and data protection law**

Our regulatory reference rules only require firms to disclose information that has been properly verified. The template for regulatory references sets out the minimum criteria that a firm must disclose. A firm can still provide additional information. If a firm chooses to disclose more than we require, it should still meet its duties under general law to its former employee and to the firm requesting the reference.

We believe that the requirement to provide a regulatory reference does not contravene any aspect of the GDPR, as:

- the information employers are required to give is proportionate
- storage of the information is for an appropriate amount of time
- it is appropriate to store it and provide to a new employer to comply with regulation

### **Contractual terms**

Firms should already be collecting most of the information they have to include in regulatory references, as part of their statutory obligations to keep records for regulatory reporting. So we think that updating these existing processes should involve only minimal costs.

One of the main aims of the SM&CR is for firms and Senior Managers to take greater responsibility for ensuring their employees are suitable. Regulatory references are designed to make it easier to share information between firms. The Fair and Effective Markets Review (FEMR) found that there was little benefit in creating an FCA portal of references. So we don't believe it's appropriate for us to create a central portal of references or to manage disputes about their content.

### **Clarifications**

We believe that using a mandatory standard template will increase the consistency of references across different firms. Our Handbook contains



guidance on how firms should complete references. It includes examples of factors to take into account when deciding whether old misconduct is sufficiently serious to be disclosed.

When and how a firm decides to undertake disciplinary action is a matter for individual firms. We have not imposed a wider duty on firms to investigate all potential breaches or disclose information that they have not been able to verify.

Under SYSC 22, firms must disclose, in the reference, all information that could be relevant to the hiring firm's assessment of the candidate's fitness and propriety. If a firm fails to disclose all information that could be relevant, then this is likely to be a breach of our rules. In such cases we will consider what regulatory action should be taken. In certain circumstances, this may include possible enforcement action.

If the former employer is not willing to provide a regulatory reference and is an authorised firm, you should:

- explain you are requesting the reference under Chapter 22 of the FCA Senior Management Arrangements, Systems and Controls Manual (SYSC)
- inform your FCA case officer (if you have one), call our helpline on 0300 500 0597 or email us at [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

For sole traders, we have added guidance to clarify that a firm doesn't need to request a reference for a candidate if they were a sole trader. We have also added a rule clarifying that that sole traders won't need to get references about themselves from previous employers if they will perform a Senior Management Function as the sole trader.

A firm is only required to respond to a request for a regulatory reference received from another FCA-regulated firm. Firms don't need to respond to speculative references submitted before an individual has been proposed for a function. For example, a recruitment agency vetting a candidate before a firm has considered appointing that person.

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## 5 Conduct Rules

### Who should read this chapter?

All firms should read this chapter.

### Our proposals

- 5.1** In CP17/25, we proposed replacing the current Statements of Principle and Code of Practice for Approved Persons (the APER section of the Handbook) with a set of individual Conduct Rules for all firms. This will ensure a single standard applies across the market. As the Conduct Rules apply directly to individuals, they will help shape firms' culture, standards and policies. They should also promote positive behaviours that actively support our statutory objectives.
- 5.2** The Conduct Rules are made up of a general set of rules that we proposed to apply to most employees in a firm. We also proposed a second tier of rules that only apply to Senior Managers.

**Table 4: Conduct Rules**

First Tier – Individual Conduct Rules	
1.	You must act with integrity
2.	You must act with due care, skill and diligence
3.	You must be open and cooperative with the FCA, the PRA and other regulators
4.	You must pay due regard to the interests of customers and treat them fairly
5.	You must observe proper standards of market conduct
Second Tier – Senior Manager Conduct Rules	
SC1.	You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively
SC2.	You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system
SC3.	You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively
SC4.	You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice <sup>6</sup>

<sup>6</sup> As well as Senior Managers, SC4 also applies to non-approved Non-Executive Directors.



**5.3** We proposed that these Conduct Rules would apply to a firm's regulated and unregulated financial services activities. This includes any related ancillary activities – activities carried on in connection with a regulated activity.

**5.4** We proposed to apply the Conduct Rules to:

- all Senior Managers
- all Certified individuals
- all Directors who are not Senior Managers
- all other employees, except ancillary staff (ie people who don't perform a role specific to financial services)

**5.5** We proposed certain training and notification requirements. These included:

- for Senior Managers, the requirement for firms to notify us of breaches within seven business days of the firm concluding disciplinary action. Disciplinary action in this context means:
  - issuing a formal written warning
  - suspending or dismissing the individual
  - reducing or recovering any of the person's remuneration
- for all other staff that come under the Conduct Rules, the firm should make a report every year using REP008 on our electronic reporting system, GABRIEL

**5.6** This chapter sets out the feedback we received on the Conduct Rules and our response.

## Scope of the Conduct Rules

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### Feedback received

**Q15:** Do you agree with our proposal to apply the Conduct Rules to financial services activities?

**Q16:** Do you agree with our proposal to apply the Conduct Rules to all employees who perform financial services, with the limited exclusions listed in section 7.14 [of CP17/25]?

**Q17:** If you disagree, please explain why, including (where appropriate) cost implications.

**5.7** A number of respondents asked us to clarify the scope of activities subject to the Conduct Rules and on how this relates to the fitness and propriety requirements.

**5.8** They also suggested additional roles for the ancillary staff list or that the list should not be exhaustive. Others argued that certain roles on the ancillary staff list shouldn't be excluded, or that all staff should be in scope.

**5.9** A number of respondents asked us to clarify the scope of the Conduct Rules where individuals who are not on the ancillary staff list in practice don't undertake any financial services activities. We were also asked whether the Conduct Rules apply to trustees.

**5.10** A number of respondents suggested that the scope of application of the Conduct Rules should be the same as the banking regime.<sup>7</sup> Some also asked us whether anything prevented a firm from applying the Conduct Rules to all of their employees. Others asked if the scope of the Conduct Rules would be different for Limited Scope firms.

### Requests for clarification

**5.11** Respondents asked us to clarify:

- how the Conduct Rules apply where firms carry out a mixture of financial services and non-financial services activities
- what the narrower application of the Conduct Rules means compared to that in place for banking firms

## Our response

We are making the rules as consulted on.

### Activities the Conduct Rules apply to

The scope of activities covered by the Conduct Rules, for firms other than banking firms, is set out in COCON 1.1.7A. Generally, this covers:

- a firm's regulated activities
- an activity carried on in connection with a regulated activity, or held out as being for the purposes of a regulated activity, or an activity listed in points 2 to 15 of [Annex 1 to the CRD \(List of activities subject to mutual recognition\)](#)
- any activities (regulated or unregulated):
  - that could affect the integrity of the UK financial system
  - affect the ability of a firm to meet the fit and proper threshold conditions, or
  - affect the ability of a firm to meet requirements relating to the firm's financial resources

<sup>7</sup> Under the banking regime, the Conduct Rules apply to everyone someone does on behalf of a banking firm, whether it's regulated or unregulated or linked to financial services.



This is the same for all firms, whether they are Limited Scope, Core or Enhanced.

### Who the Conduct Rules apply to

If someone is working for an SM&CR firm as an employee, the Conduct Rules apply to them – even if they don't have a contract of employment. FSMA provides a specific definition of 'employee' for the purpose of the SM&CR, which differs from the usual meaning in law and defines an employee as including '*... a person who –*

- (a) *personally provides, or is under an obligation personally to provide, services to [a firm] under an arrangement made between [a firm] and the person providing the services or another person, and*
- (b) *is subject to (or to the right of) supervision, direction or control by [a firm] as to the manner in which those services are provided.'*

The Conduct Rules also apply to SMFs and Board Directors, whether or not they come within this definition of 'employee'.

The Conduct Rules don't apply to people who only perform an 'ancillary role'. We have provided a list of ancillary roles the Conduct Rules don't apply to. This is set out in COCON 1.1.2 R (6). These are roles which would be the same whether or not they are performed at a financial services firm or a non-financial services firm.

This means that individuals performing a role on the ancillary roles list and also undertaking other activities would be in scope of the Conduct Rules for any part of their role that falls into COCON 1.1.7A (ie the financial services part of their role), but not a part of their activities that falls outside COCON 1.1.7A. Equally, individuals at firms who are in no way involved in financial services activities would not fall within scope of the Conduct Rules.

Ultimately, it is for firms to decide where individuals performing ancillary roles need to be trained on the Conduct Rules.

### Trustees

The Conduct Rules only apply to SMFs, non-SMF directors and employees of firms. FSMA defines 'employees' as including contractors, temps and secondees. On this basis, whether a trustee is in scope will depend on whether they meet the definition of an 'employee'.

### Wider application of Conduct Rules

Firms can apply the Conduct Rules to all of their staff if they want to. However, the training obligations, the requirement to report breaches and the FCA's enforcement powers in relation to the Conduct Rules only apply to individuals in the scope of our Handbook rules.

Similarly, a solo-regulated firm in a banking group can choose to apply the banking scope of the Conduct Rules to all firms within the group, but the specific regulatory requirements again only apply to those individuals in scope of the Handbook rules.

In short, firms can choose to have a single standard for all employees if they want to, but our rules (including the mandatory training and reporting obligations) only apply to the population of staff described above.

Firms may wish to consider whether there are any impacts on contracts of employment where they intend to apply the Conduct Rules to staff who are not within scope of our rules.

### Clarifications

Some firms offer a mix of financial and non-financial activities. For them, whether something is in scope of the Conduct Rules depends on whether it meets the definition of activities covered by the Conduct Rules. Generally, this will only be the case where there is a connection between the financial activity and non-financial activity.

This approach is narrower than the one we took for banking firms, as everything that a bank does will be captured by the Conduct Rules. For solo-regulated firms and insurers, activity will only be captured if it meets the definition set out in COCON 1.1.7A.

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## Conduct Rule Breach Reporting

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### Feedback received

**Q18: Do you agree with our proposal to link notification requirements for disciplinary action to breaches of the Conduct Rules?**

- 5.12** The majority of respondents supported our proposed Conduct Rule reporting requirements.
- 5.13** A small number suggested that the reporting requirement should only apply to Senior Managers and Certification Staff.
- 5.14** We were asked to explain how the FCA would use personal information and whether we required this information for non-certified staff.
- 5.15** Several respondents suggested that notification should be delayed until investigations have been completed or a breach had been proved. Others felt firms should also notify breaches of other conduct standards, such as those of a professional body.
- 5.16** Some respondents suggested a right of appeal to the FCA, to prevent malicious reporting. They also suggested a central register to support this process.
- 5.17** We were asked to consider increasing the notification period to one month for Senior Managers to allow for appeal processes. Respondents also wanted us to confirm what firms should do when an employee leaves before disciplinary procedures are completed.



## Our response

Section 64C of FSMA requires firms to notify the FCA of disciplinary action taken against relevant individuals because of breaches of the Conduct Rules. Under FSMA, disciplinary action covers:

- issuing a formal written warning
- suspension or dismissal of an individual
- reduction or recovery of any of the person's remuneration

Firms should only report Conduct Rule breaches to us where they result in one of these courses of action, and once the relevant disciplinary process has been completed. This means that if an individual leaves the firm during the disciplinary process and the process can't be completed, the firm should not submit a report.

We consider that the requirement that only completed disciplinary proceedings should be reported should be enough to prevent malicious reporting. It will also mean only proven Conduct Rule breaches will be reported to us.

The Conduct Rule notification requirements do not change or remove firms' obligations to report concerns about an individual's conduct under existing rules or principles.

Breaches of professional body codes should not be included unless they are also a breach of FCA Conduct Rules and the firm has disciplined the employee in the way described above.

The Conduct Rules apply to all non-ancillary staff, so the Conduct Rules reporting requirements apply to these staff too. This is because staff at all levels of a firm have the potential to cause harm.

We have considered whether we should lengthen the notification period for Senior Managers to 1 month but have decided not to do so. The potentially serious nature of breaches by Senior Managers means that swift notification will often be an important factor in ensuring we can supervise effectively.

Read our response to Question 19 for what a firm should do if the employee appeals against disciplinary action.

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**Q19: Do you agree with our proposed frequency of Conduct Rules notifications? If not, please explain why.**

**5.18** Respondents wanted to know how we would ensure consistent reporting across the industry.

**5.19** Some also wanted further clarity about the notification requirements for Senior Manager Conduct Rule breaches. They were concerned that firms would be



required to report breaches by Senior Managers without completing the firm's disciplinary procedures.

**5.20** Some suggested that annual reporting is too infrequent if a customer-facing employee is dismissed for a serious breach of Conduct Rules.

**5.21** A few respondents suggested that notification reporting should align with existing reporting schedules.

### Requests for clarification

**5.22** Respondents asked us to clarify:

- how we will use Conduct Rule breach reports and what effect this will have on relevant staff
- how firms should update annual Conduct Rule breach notifications where they become aware of new information that changes a disciplinary outcome

### Our response

For Senior Managers, the notification requirements apply more widely than just the Conduct Rules. They also cover other factors including fitness and propriety. For notifications made due to breaches of the Conduct Rules, the 7-day period begins once disciplinary action has been concluded. Read 5.5 above for more information on what disciplinary action means in this context.

This does not change or remove firms' obligations to report concerns about an individual's conduct under existing rules or principles, such as Principle 11.

We consider that it would be disproportionate to require firms to report Conduct Rule breaches for non-Senior Managers more often than annually (beyond existing obligations on firms to report concerns about an individual's conduct, for example under Principle 11). The onus is on firms to ensure that breaches of the Conduct Rules are dealt with effectively under the firm's own disciplinary process. Firms must also ensure that they appropriately address any customer harm.

We have considered whether aligning the GABRIEL annual reporting requirement to a firm's existing regulatory reporting schedule would be appropriate, and understand why this would help some firms. However, the requirement is designed to align with the banking regime and provide a consistent reporting date for the industry. Feedback suggests that for firms with mixed groups, such as banking groups that include asset managers, making a change would create a complex and inconsistent set of requirements. Different entities would have to report the same information for different periods.

For this reason, and so that we can compare data across the whole industry, we intend to keep the proposed reporting period of 1 September to 31 August each year for most firms (with a submission



due date of within 2 months of the end of the reporting period). However, for Limited Permission Consumer Credit firms – the majority of whom are the very smallest firms we regulate – we have decided to align the reporting period for this return with their annual reporting cycle. We considered extending this change to other small firms, but decided that it is only appropriate for these firms.

The Conduct Rules are designed to raise standards of behaviour at all levels and ensure that individuals are responsible for their actions. The onus is on firms to take appropriate disciplinary action where an individual breaches a Conduct Rule. The information we get from these notifications will help inform supervisory activity. If disciplinary action is taken against an individual and they subsequently leave the firm during the reporting period, then the breach should still be reported.

Firms should only report Conduct Rule breaches once disciplinary action has concluded. If a firm takes disciplinary action for a Conduct Rule breach but the employee appeals, or plans to, this should still be reported to us. In some circumstances, individuals will appeal the outcome of a concluded disciplinary process and the decision will be overturned. Where an appeal is successful, firms should update us in the following REP008 submission. We believe that these instances will be rare given the annual submission cycle. This should only usually occur where a disciplinary process is concluded shortly before the due date for REP008 and there is not time to assess the appeal before submission. In the case of a Senior Manager, a firm should report the result of a successful appeal as soon as reasonably practicable after the appeal.

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## 6 Enhanced Tier – Criteria and Extra Requirements

### Who should read this chapter

This chapter is only relevant to Enhanced firms, or firms intending to opt-up to the Enhanced tier of the regime.

- 6.1** Feedback on Enhanced SMFs and Enhanced Prescribed Responsibilities can be found in Chapter 2. This chapter provides our response to feedback on our proposed criteria for identifying Enhanced firms and the rules about firms moving between tiers of the regime.

### Our proposals

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- 6.2** In July, we proposed 6 criteria to identify those firms that we will apply extra requirements to. We classify these firms as Enhanced. The final criteria are set out in our legal instrument but we have summarised the changes in Table 5 below.
- 6.3** We also proposed rules for how firms will move between tiers of the regime when they begin to meet, or no longer meet, the Enhanced criteria. We also proposed:
- an Overall Responsibility requirement
  - a requirement that Enhanced firms create a Responsibilities Map
  - requirements around Handover Procedures
- 6.4** This chapter sets out the feedback we received and our response. Feedback on the extra SMFs we proposed can be found in Chapter 2.

### Enhanced criteria

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#### Feedback received

**Q20: Do you agree with our proposed approach of using the objective criteria set out above to identify firms for the Enhanced regime? If not, please explain why and propose alternative approaches.**

- 6.5** Several respondents suggested that the criteria were too focused on quantitative thresholds and that we should use qualitative thresholds instead, or as well. Some asset management respondents felt that asset managers should never be in the Enhanced tier as they are not systemically risky firms.



- 6.6** We received a significant amount of feedback suggesting that the proposed financial criteria were too sensitive to single year anomalies. This may bring firms into the scope of the Enhanced tier, disproportionately. Respondents also suggested that the financial thresholds had been set too low.
- 6.7** Respondents suggested various combinations of financial and contextual information, including using staff numbers, to decide if a firm qualifies as Enhanced.
- 6.8** Two respondents suggested removing the CASS Large criteria. They believed that all CASS Large firms would meet the threshold for inclusion under the IFPRU criteria. One respondent highlighted that the CASS limit of £425m for Significant IFPRU firms is significantly less than the £1bn client money limit for CASS Large firms.
- 6.9** Respondents also asked us to clarify:
- if a firm that does not submit the RMA-B regulatory return is still subject to the intermediation threshold
  - if a firm with waivers for Significant IFPRU obligations will still be subject to the Enhanced tier
  - the application of the Enhanced tier to exempt commodities firms

### Our response

We considered whether the Enhanced criteria set out in CP17/25 were too sensitive to single year anomalies that may not reflect the real impact of a firm's business. We agree with the feedback and have decided to make some changes to the financial criteria. We set these out in Table 5 below.

**Table 5: Enhanced criteria and changes following feedback**

Form Name	Purpose/Changes
A firm that is a Significant IFPRU firm	None
A firm that is a CASS Large firm	None
Firms with Assets Under Management of £50bn or more (at any time in the previous 3 years)	Firms with Assets Under Management of £50bn or more <u>calculated as a three year rolling average</u>
Firms with current total intermediary regulated business revenue of £35m or more per annum	Firms with current total intermediary regulated business revenue of £35m or more per annum <u>calculated as a three year rolling average</u>

Form Name	Purpose/Changes
Firms with an annual regulated revenue generated by consumer credit lending of £100m or more	Firms with annual revenue generated by regulated consumer credit lending of £100m or more <u>calculated as a three year rolling average</u> <sup>8</sup>  Please read the details in our response below for firms that don't yet have data covering three complete years
Mortgage lenders (that are not banks) with 10,000 or more regulated mortgages outstanding	Mortgage lenders <u>and administrators</u> (that are not banks) with 10,000 or more regulated mortgages outstanding <sup>8</sup>

The three financial criteria will now all be worked out on a 3-year rolling average basis, with slight variations necessary due to the underlying reporting requirements. This means that:

- the Assets under Management (AuM) threshold will now be calculated on a 3 year rolling average, updated at every FSA038 submission. This means that, for example, if a firm submits FSA038 on a bi-annual/six-monthly basis, it would calculate its average AUM after each submission, using the most recent return and the five preceding returns (covering the last three years)
- the intermediation threshold drawn from section B of the RMAR will also be calculated on a 3 year rolling average basis. There is more information on the Retail Mediation Activities Return in SUP 16 of our Handbook. However, this threshold will only use year-end submissions as the underlying regulatory return is cumulative
- the consumer credit lending revenue threshold will be calculated on a 3-year rolling basis, and will be the 3-year average drawn from firms' full year returns. We know that some firms won't yet have data covering 3 complete years. These firms should calculate the average using data covering 2 complete years, where this is the case, or 1. Where a firm does not have data covering 1 complete year it won't be considered Enhanced, unless it decides to 'opt-up'

We have decided not to make any changes to the absolute level of the thresholds. We believe that the proposed levels are appropriate indicators of impact. They are tailored to individual sectors and are clearly defined. We also prefer quantitative thresholds as they provide firms with stable, objective and transparent criteria. We have not used employee numbers to decide whether a firm falls in the Core or Enhanced tier, as we don't want to create a disincentive for firms to hire staff. In addition, we don't think that the number of employees a firm has will necessarily correlate to their potential impact on our objectives.

The Enhanced tier isn't just designed to capture systemically risky firms from a prudential perspective. It's also designed to capture firms that are

<sup>8</sup> We have also slightly amended the labelling of two of the criteria to ensure clarity. These changes ensure that the labelling in this Policy Statement aligns with the rules we consulted on and the near-final rules in our instrument. The two changes are to clarify that the mortgage criterion applies to mortgage lenders and administrators, and to clarify that the consumer credit lending threshold applies to regulated consumer credit lending.



larger in size or have more complex structures. It is in these firms that weaknesses in accountability or governance could cause greater harm to consumers, or impact on market integrity. The asset management industry plays a vital role in the UK's economy and manages the savings and pensions of millions people. As such, we don't agree that they should be excluded from the Enhanced tier.

As it's possible to be a CASS Large firm without also being a Significant IFPRU firm, we have maintained the CASS Large criteria as proposed. While the CASS limit for Significant IFPRU firms is lower than that for CASS Large firms, we believe that this is appropriate as these two thresholds target different possible harms.

There are a few firms who complete returns other than RMA-B and who have intermediation revenue of over £35m. Our intention was that these firms would be captured by the threshold. We agree that the rules as proposed did not have this effect. We plan to consult separately on bringing these firms into the Enhanced tier before the start of the SM&CR.

If a firm has a waiver from being a Significant IFPRU firm entirely, it won't meet the IFPRU criterion to make it an Enhanced firm. If a firm has a waiver from parts of the Significant IFPRU requirements only, they will still be an Enhanced firm. Exempt IFPRU commodities firms that are Significant IFPRU firms will be Enhanced firms.

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## Moving to and from the Enhanced tier

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### Feedback received

**Q21: Do you agree with our proposed approach to moving firms between Core and Enhanced? If not, please explain why.**

- 6.10** Respondents broadly supported our proposed approach to firms moving in and out of the Enhanced tier.
- 6.11** Several respondents asked how the proposed approach would apply to groups. They felt that having the ability to opt-up to the Enhanced tier would ensure a consistent approach for groups with entities in different tiers.
- 6.12** One respondent suggested that Core or Limited Scope entities in a group containing an Enhanced firm should also be subject to the Enhanced tier. Others asked us whether firms in this situation would be able to opt-up into the Enhanced tier.
- 6.13** Some respondents wanted to extend the transition period for firms moving into the Enhanced tier to 12 months, rather than 6 months. This would align it with the exit transition period.
- 6.14** Respondents asked us to clarify:
- the approach where firms move categories during the transition period

- whether firms could apply for waivers
- if we could ask firms to comply with the Enhanced tier even if they don't meet the criteria

## Our response

### Opting Up

We don't believe that it would be proportionate to make all firms in a group with an Enhanced firm automatically apply the Enhanced tier. However, we agree that it should be easier for firms to opt into the Enhanced tier if they want to, particularly within groups. As a result, we have made it easier for firms to opt-up using a notification process and a new form (Form O). Firms can make the decision to opt-up after considering their specific circumstances.

Once firms have opted into the Enhanced tier they must comply with all of the relevant rules. If they don't it will be a breach of our rules – firms can't choose to apply some elements of the regime and not others. This is to ensure consistency and transparency across all firms in the Enhanced tier.

The SM&CR is designed to be proportionate. We don't expect firms to opt into the Enhanced tier for the sake of having more SMFs and opting into the Enhanced tier must not lead to accountability at these firms becoming unclear.

If firms choose to opt into the Enhanced tier (or from Limited Scope to the Core), they must be ready to comply with all the rules of the opted-into regime 3 months after the date Form O is submitted. More information on opting up is in SYSC 23 Annex 1.

### Moving between tiers

We agree that a longer transition period would be appropriate for firms moving into the Enhanced tier. We have therefore extended the transition period to 12 months, which means that firms moving into the Enhanced tier will have 12 months to prepare and make the relevant changes, where applicable. This aligns the entry transition period with the exit transition period. This is the amount of time that the Enhanced tier applies once a firm no longer meets the relevant criteria. As mentioned above, the period is 3 months if the firm opts up to the Enhanced tier.

While we believe that the changes to the financial thresholds will make this less common, it is possible that a small number of firms will change regime tier during the transition to the new SM&CR. If a firm believes that it is likely to change tiers during the transition, they should contact us as soon as possible so that we can help them.

The existing waivers processes will continue to apply. We will consider all requests using the existing criteria.



## Overall Responsibility Requirement

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### Feedback received

**Q25: Do you agree with our proposal to apply the Overall Responsibility requirement to Enhanced firms? If not, please explain why.**

- 6.15** We received mainly positive feedback to our proposals. Some respondents were unclear on the difference between the Overall Responsibility requirement and the SMF18 – Overall Responsibility Function.
- 6.16** A few respondents suggested that the Overall Responsibility requirement should apply to Core firms and that we should make the SMF18 – Overall Responsibility Function available to these firms.
- 6.17** One respondent noted that, as part of the re-structuring of SYSC, we have deleted SYSC 4.7.9G. This provided guidance on the purpose of the Overall Responsibility requirement.
- 6.18** Many respondents asked for guidance on how to apply the rule, as well as for examples of good practice. Some respondents asked which areas of their 'unregulated' business had to be represented by a Senior Manager. Others wanted guidance on how to treat business unit heads and how to distinguish between an individual holding the Significant Management Certification Function and one holding the SMF18.
- 6.19** We were asked how this requirement should be applied within group structures, particularly where the parent company has significant management influence in the subsidiary. Respondents also wanted to know whether the changes will alter how Overall Responsibility applies to banking firms.
- 6.20** One respondent asked us to consider redrafting SYSC 4.7.30G. This refers to the inclusion of activities, transactions, business areas and management functions that are located or take place outside the UK. They asked us whether this could be limited to firms only operating, or dealing with customers, in the UK.

### Our response

The Other Overall Responsibility Function and the Overall Responsibility requirement are separate but related concepts:

- the Overall Responsibility requirement asks firms to ensure that every activity, business area and management function has a Senior Manager with 'Overall Responsibility' for it
- the SMF18 – Other Overall Responsibility Function is an additional SMF. Firms can use this where an individual has 'Overall Responsibility' for an activity, business area, or management function, but does not already hold an SMF

CP 17/25 set out some of the steps a firm may wish to take to comply with the Overall Responsibility rules. We have not set out best practice guidance as the way that firms allocate Overall Responsibility will be



different for every firm. The Responsibilities Map should help Enhanced firms to work out if there are any gaps in Overall Responsibility.

### **SMF18 – Other Overall Responsibility Function**

We have addressed feedback about the difference between SMF18 and the Significant Management Function in our response to feedback on Enhanced SMFs.

Feedback on SMF18 is addressed in the chapter on SMFs for Core firms. We have not applied an Overall Responsibility requirement to the Core tier because we think it is disproportionate to require this of all Core firms. This means we don't require Core firms to ensure there is a Senior Manager responsible for every area of the firm's business.

Enhanced firms should also keep in mind that the regime applies to individual legal entities. Firms must ensure that they identify the individual who is genuinely accountable in the entity in question. This is regardless of whether or not they are a director or employee of that particular entity.

For example, there may be situations where an individual outside the firm has Overall Responsibility for the relevant activity, business area or management function of the firm – for example, someone in another group entity. In most cases, this person should be approved as SMF7 – Group Entity Senior Manager. If not, they will need to be approved as SMF18, as long as they don't hold any other SMF at the firm.

In short, if an individual in another group entity in the scenario above does not hold an SMF at the firm, then:

- if their role meets both the definition of SMF7 and SMF18, the individual should be approved as SMF7
- if their role does not meet the definition of SMF7, then they should be approved as SMF18

### **Overall Responsibility Requirement**

We proposed new guidance in SYSC 26.2 to explain the purpose of the Overall Responsibility requirement. This will replace the guidance in SYSC 4.7.9G. It sets out that at banking firms and Enhanced solo-regulated SM&CR firms a Senior Manager should be responsible and accountable for each area of a firm's activities. We confirm that this does not change how Overall Responsibility applies to banking firms.

Unregulated activities will come into the scope of Overall Responsibility where they meet the definition of 'SMCR financial activities' under our Handbook. This includes:

- regulated activities
- an activity carried on in connection with a regulated activity (whether current, past or contemplated)



- an activity held out as being for the purposes of a regulated activity or an activity included on the 'List of activities subject to mutual recognition' in Annex 1 of the CRD (whether current, past or contemplated)

The definition of SMCR financial activities in the Glossary contains more detail.

There is no territorial limitation restricting the rules relating to Overall Responsibility to transactions in the UK. Someone performing a function for a UK entity can affect that entity even where they are doing business outside the UK.

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## Responsibilities Maps

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### Feedback received

**Q26: Do you agree with our proposal to apply Responsibilities Maps to Enhanced firms? If not, please explain why.**

- 6.21** Most respondents agreed with our proposals, with a significant number suggesting that all firms should maintain a Responsibilities Map.
- 6.22** There was some confusion about the level of detail required in the Responsibilities Map. Some respondents were unsure whether information in Statements of Responsibilities should be repeated. A number of firms asked for guidance on how to create the map and what lessons were learned when banking firms implemented this.
- 6.23** There were questions about when maps need to be updated and submitted to us, following changes to the management team.

Some respondents suggested that legal entities managed as a group could submit a single Responsibilities Map. Some respondents also asked for guidance on how to represent key senior managers in the parent group.

### Our response

Under Principle 3, all firms need to take reasonable care to organise and control their affairs responsibly and effectively. All firms may find it helpful to use the principles and practice of the Responsibilities Map, but we only require Enhanced firms to create and maintain them, and to send these to us when there is a material change. We feel it would be disproportionate to require smaller firms to do this.

Respondents should refer to our rule in SYSC 25.2.3, which describes what a Responsibilities Map must include. The level of detail in the map should clearly describe the firm's management and governance arrangements. They can also give a collective view of how responsibilities have been allocated and highlight issues or gaps in a firm's governance arrangements.

Our rules state that Responsibilities Maps should be up-to-date at all times. It is up to firms to decide how they do this and we do not require changes to be notified to us except in specified circumstances (such as a notification of a change to a Senior Manager's SoR or an application for approval of an SMF). For each significant change in the management arrangements at a firm,<sup>9</sup> every impacted Senior Manager will need to update their SoR. Any significant changes to a Senior Manager's responsibilities must be shown on an updated SoR and re-submitted to us, along with an updated Responsibilities Map. In some cases, the changes could make little difference to the overall map. In other cases, reviewing the map could help the firm spot issues resulting from the changes, such as gaps or overlaps in responsibilities.

We recognise respondents' feedback on the resources required to update the maps and SoRs. However, we think that the requirements are proportionate. Firms with a simple allocation of responsibilities will only need to produce simple documents. Likewise, small changes to responsibilities will create small changes to the maps and may not require any change to SoRs. Firms which operate within a group should note that the SM&CR applies to legal entities individually, rather than to a group as a whole. It is therefore not appropriate for firms to submit only one Responsibilities Map for the entire group. However, the guidance in SYSC 25 recognises that a firm may share management or governance arrangements with other members of the group. Firms should include these details in their maps to show how their management and governance arrangements fit together with the group.

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## Handover Procedures

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### Feedback received

**Q27: Do you agree with our proposal to apply handover procedures to Enhanced firms? If not, please explain why.**

- 6.24** Most respondents welcomed our proposal to apply handover procedures to Enhanced firms. In their view, firms had already developed some form of handover procedures.
- 6.25** While agreeing with our proposals, a few respondents suggested that we extend this to cover Core firms as well.
- 6.26** Some expressed concerns – in particular, some felt that we should not prescribe or dictate handover procedures. Others were concerned that there could be problems applying our proposals if Senior Managers leave the role suddenly without preparing handover materials.

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<sup>9</sup> This is required by FSMA and explained in SUP10C.11, where we provide examples of what is and isn't a significant change.



**6.27** We were asked about the detail that should be recorded in the handover template, and asked to explain our expectations and provide good practice guidance on the following:

- reasonable steps
- what should be included in the handover policies and certificates

### Our response

Having considered respondents' feedback, we will implement our proposals unchanged. We think there has been a misunderstanding of the policy intention, especially around handover arrangements and handover certificates. We want to clarify that it isn't mandatory to prepare a handover certificate. This is one way that firms can meet the handover requirements, but we understand that there may be cases where this is impractical. We think this is clear in our Handbook in SYSC 25.9.8.

Firms should have arrangements for an orderly transition between Senior Managers. Firms can decide how to do this. Each firm's handover material will depend on the business model and governance structure, as well as the specific individual's position and responsibilities. Handover policies can help firms demonstrate they have taken reasonable steps to ensure a person taking a Senior Manager role has all the information and materials they could reasonably expect to do their job effectively, even where the previous Senior Manager departs suddenly.

We won't require Core firms to comply with the handover rules. However, Senior Managers in Core and Limited Scope firms will still be subject to SC1 of the Conduct Rules. This requires Senior Managers to ensure that the business of the firm for which they are responsible is controlled effectively. Core firms may find handover procedures useful to support this, but it is not required.

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## 7 Applying the new regime to incoming UK branches

### Who should read this chapter

This chapter only applies to EEA and Third Country Branches.

### Our proposals

- 7.1** In CP17/25, we proposed a set of Senior Management Functions for EEA and non-EEA branches, and set out how we proposed to apply the Certification Regime and Conduct Rules to these firms.
- 7.2** We also proposed a set of Prescribed Responsibilities for non-EEA branches, 3 of which (aa, ff and ee) are specific to non-EEA branches.

**Table 6: Application of the SM&CR to branches**

Element	EEA Branches	Non-EEA Branches
<b>SMFs</b>	SMF21 – EEA Branch Senior Manager	SMF19 – Head of Third Country Branch
	SMF17 – Money Laundering Reporting Officer (MLRO)	SMF3 – Executive Director
		SMF16 – Compliance Oversight
<b>Prescribed Responsibilities</b>	N/A	a) Performance by the firm of its obligations under the Senior Managers Regime, including implementation and oversight
		b) Performance by the firm of its obligations under the Certification Regime
		b-1) Performance by the firm of its obligations in respect of notifications and training of the Conduct Rules
		d) Responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime
		z) Responsibility for the firm's compliance with CASS
		aa) Responsibility for management of the firm's risk management processes in the UK
		ff) Responsibility for the firm's compliance with the UK regulatory system applicable to the firm



Element	EEA Branches	Non-EEA Branches
		ee) Responsibility for the escalation of correspondence from the PRA, FCA and other regulators in respect of the firm to the governing body and/or the management body of the firm or, where appropriate, of the parent undertaking or holding company of the firm's group <hr/> (za) Responsibility for an AFM's value for money assessments, independent director representation and acting in investors' best interests
<b>Certification Regime</b>		Yes
<b>Conduct Rules</b>		Yes

### Feedback received

- Q28:** Do you agree with our proposals for Senior Managers in EEA branches?
- Q29:** Do you agree with our proposals on the Certification Regime and Conduct Rules for EEA branches?
- Q30:** Do you agree with our proposals for Senior Managers in non-EEA branches? If you disagree, please explain why.
- Q31:** Do you agree with our proposals for Prescribed Responsibilities in non-EEA branches? If you disagree, please explain why.
- Q32:** Do you agree with our proposals on the Certification Regime and Conduct Rules for non-EEA branches?

- 7.3** The majority of respondents supported our proposals for branches. They asked how the regime would apply to EEA branches after the UK leaves the European Union.
- 7.4** Some challenged the additional administrative burden on Senior Managers in non-UK locations who are already subject to local regulations. Others noted that the Branch Manager may not be involved in the day to day activities of the firm, particularly in larger branches. One respondent suggested that the SMF16 – Compliance Oversight Function should apply to EEA branches to ensure head offices appreciate the regulatory requirements of the UK.
- 7.5** One respondent noted that the proposals for solo-regulated non-EEA branches were inconsistent with the banking regime, as the SMF7 – Group Entity Function doesn't apply to solo-regulated branches.
- 7.6** Respondents asked us to confirm that PRs should not be assigned to individuals in EEA branches but should be assigned to Senior Managers in non-EEA branches.

- 7.7** Some respondents wanted the PRs to be consistent across the different categories of firms.
- 7.8** Others suggested that PRs for non-EEA firms should also include responsibility for culture, training and conflicts of interest.
- 7.9** The majority of respondents agreed with our proposals on the Certification Regime and Conduct Rules for EEA branches. However, some questioned whether it was proportionate to have 2 Senior Managers responsible for a large certified population. Most welcomed the exclusion of non-UK staff from the Certification Regime, but there was some concern that this could lead to gaps in accountability in firms with global operations.

### Our response

We explained in our Mission that we would review our Handbook after the work on the outcome on EU withdrawal is clear. Until then, we don't intend to do further work on changing the structure of our Handbook, including the SM&CR rules.

#### Senior Managers at EEA Branches

EEA branches have a simplified version of the Senior Managers Regime – the only individuals who require approval are the EEA Branch Senior Manager and the MLRO. We believe that this tailored version of the regime is proportionate and appropriate, and reflects the split of home and host regulator responsibilities.

EEA branches don't need to put forward their Head of Compliance or Compliance Officer for approval for the Compliance Oversight function (SMF16). This is a matter reserved to the home member state. This is consistent with the current APR for EEA branches, as well as the regime for banking firms.

EEA Branches should still organise themselves so they meet their regulatory responsibilities, for example with clear governance structures and lines of accountability.

Senior Managers in EEA branches will require a SoR. We confirm that PRs won't apply to EEA branches.

#### Non-EEA Branches and SMF7

For non-EEA branches, we have not included the SMF7 – Group Entity Senior Manager. This is consistent with our approach for UK-based firms in the Core tier, and reflects a proportionate application of the regime to solo-regulated firms.

#### Territorial Scope

Most respondents agreed with the proposed territorial application of the regime for branches, so we have maintained this approach in our near-final rules. We believe this reflects the different regulatory requirements that apply to incoming branches. This includes rules on



fitness and propriety, and conduct, which apply to staff under their home state regulations.

### **Prescribed Responsibilities for Branches**

The differences in the PRs for Core and Enhanced firms and Non-EEA branches reflect the different natures and risks associated with these businesses. We don't propose applying any additional PRs to non-EEA branches as we think the suite we proposed is appropriate and proportionate. It focuses accountability on the key conduct and prudential risks that can harm our objectives. See our feedback in Chapter 2 for more detail on this.

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## 8 Changes that affect banking firms and solo-regulated firms

### Our proposals

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- 8.1** In CP17/25, we proposed introducing a new PR for the Conduct Rules. This means that all firms, including banking firms, must allocate responsibility for ensuring that they train staff in the Conduct Rules and comply with the FCA notification requirements.
- 8.2** The 12-week rule allows someone to cover for a Senior Manager without being approved, where the absence is temporary or reasonably unforeseen, and the appointment is for less than 12 consecutive weeks. We proposed to allow any responsibility that the absent manager holds under the Overall Responsibility requirement to be reallocated to someone who is not approved, during their absence. We also suggested a technical change to apply the SMF27 – Partner function to banks.
- 8.3** This chapter sets out the feedback we received on these topics and our response.

### New PR for the Conduct Rules

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#### Feedback received

**Q33: Do you agree with our proposal to introduce a new Prescribed Responsibility for the Conduct Rules that will apply to banking firms?**

- 8.4** The majority of respondents supported our proposal. A small number challenged the need for the PR and requested clarity on how to allocate it.
- 8.5** A small number of respondents believed that it might be difficult to allocate this PR to one person, as training is often administered by HR, Legal and Compliance.

#### Our response

The Conduct Rules and this PR aim to drive up standards of individual behaviour in financial services. We aim to improve individual accountability and awareness of conduct issues. This will in turn achieve the culture change that we are seeking. We want to make sure a senior individual is accountable for ensuring adequate training and accurate reporting of breach information to the regulator. As a result, having considered respondents' feedback, we believe that introducing this PR will help achieve our aims.



Firms must decide which Senior Manager is the best person to hold this PR. It should be given to the Senior Manager who is the most senior person responsible for the Conduct Rules training and notification requirements. They must also have sufficient authority and an appropriate level of knowledge and competence to do this properly. In larger firms, this may be the individual accountable for ensuring that activities undertaken across different parts of the firm (eg HR, legal and compliance) enable the firm to comply with our requirements. It doesn't mean this person needs to be personally involved in these activities day-to-day.

This PR should normally be held by only one person. Firms will only be able to share this PR in limited circumstances. They must be able to show that this is appropriate and justifiable. If a firm decides it is appropriate to share this PR, they must show why this is justified and confirm that this does not leave a gap.

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## Changes to the 12-week rule

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### Feedback received

**Q34: Do you agree with our changes to the 12-week rule? If not, please explain why.**

- 8.6** Several respondents suggested extending the 12 week period or using waivers where a firm can't recruit a replacement within 12 weeks.
- 8.7** We were asked to clarify how the rule applies to a variety of reasons for an SMF's absence.

### Our response

We intend to implement the 12-week rule as proposed. This applies whatever the reason for the Senior Manager's absence.

We recognise that recruitment processes can take longer than 12 weeks. However, we don't believe that it would be appropriate for an individual to perform a Senior Management Function for longer than this without approval. As such, if someone is covering an absence for longer than 12 weeks, they will need to be approved for the relevant SMF they are covering, or the firm would need to apply for a waiver.

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## Applying the Partner Function to Banks

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**Q35:** Do you agree with our approach to applying the partner function to banking firms? If not, please explain why.

8.8

We received 2 responses to this question. Both agreed with our approach.

### Our response

We will apply the Partner Function to Banks as planned.

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## 9 Feedback to our Cost-Benefit Analysis

- 9.1** When proposing rules, we must publish a cost benefit analysis (CBA) under Section 138I(2)(a) of FSMA. The CBA must include an analysis and estimate of the costs arising from, and the benefits brought about by, our proposed rules. We published a CBA for our proposals in July, alongside CP17/25.
- 9.2** This chapter sets out our response to the feedback we received on our CBA. We have separately published an updated CBA [alongside this Policy Statement](#).
- 9.3** In CP17/25 and CP17/40, we explained, as required by Section 138K of FSMA, that we did not expect our proposals to have a significantly different impact on mutual societies. The responses received to our consultations have not changed this assessment.

### Feedback received

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- Q36:** Based on the summary above and the full analysis<sup>10</sup>, do you agree with our approach and methodology for the cost-benefit analysis? If not, please explain why.
- Q37:** Based on the summary above and the full analysis<sup>10</sup>, do you agree with our findings and conclusions for the cost-benefit analysis? If not, please explain why.
- 9.4** We received 11 responses to these questions.
- 9.5** Six respondents agreed with the analysis and conclusions, but asked us to work closely with firms during implementation because of the number of other ongoing regulatory initiatives happening at the same time. One suggested that a higher response rate to our survey would have given greater confidence about our conclusion.
- 9.6** One respondent suggested that some Core firms may choose to adopt elements of the Enhanced tier as best practice and we should consider these costs as part of the CBA.
- 9.7** Another respondent agreed with the overall CBA, but said our analysis did not consider the impact for groups with entities already under the SM&CR. They suggested that, for these firms, the costs may be greater than the benefits. A further respondent suggested that smaller firms pose a lower risk, so the cost-benefit of applying the SM&CR to these firms is less clear, particularly as they are subject to the APR.
- 9.8** One respondent suggested that, because the merged CBA covers both solo-regulated firms and insurers, this made it difficult to work out which parts of the analysis apply to which firms.

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<sup>10</sup> [www.fca.org.uk/publication/research/cba-extension-senior-managers-certification-regime.pdf](http://www.fca.org.uk/publication/research/cba-extension-senior-managers-certification-regime.pdf)

- 9.9** One respondent said that the SM&CR would result in less direct supervision of firms and that we should take this into account. They also asked us to confirm whether our implementation costs will come from our existing budget.
- 9.10** One respondent disagreed with our CBA and argued that the changes we proposed will involve significant one-off and ongoing costs. They noted that the CBA did not incorporate the actual costs to banking firms and asked for further information on our discounting of the reported costs. One respondent suggested that the quoted costs to maintain the Certification Regime were an underestimate and that significant work would be needed to oversee and monitor the certified population. Some other respondents commented more generally that the costs were likely to be understated.
- 9.11** One industry association said we had given little explanation about why we had left out some cost categories in the compliance costs estimates in the main part of the CBA. Another asked why we had not separated the costs associated with the new Conduct Rules PR for banking firms.
- 9.12** We were also asked to further explain what 'average costs' incurred by firms means.
- 9.13** Some respondents suggested that unintended consequences from the proposed changes could cause considerable consumer harm, and we had overlooked the cost of this. Another respondent suggested that the consumer protection should override any CBA findings.
- 9.14** We were asked whether the following factors had been included in the CBA:
- increased headcount as a result of the SM&CR
  - IT system builds to meet the additional documentation and evidencing requirements
  - legal fees
  - administration costs
  - higher executive compensation
  - training & development
- 9.15** Some respondents suggested that we should quantify both tangible and intangible benefits.

### Our response

We used a survey to help inform decisions about what the right package of policy proposals was, and to assess the costs and benefits of our final policy proposal.

We consider our position robust because we surveyed a large number of firms (ca. 2020 of which 1690 were solo-regulated) and do not consider that the number of 171 responses by solo-regulated firms in the Core tier and 37 responses by insurers is too small to draw reliable conclusions. Where the number of responses for the given tier was small,



we have used the estimated costs with caution. We have undertaken additional analysis where we do not believe we can rely on the estimates. We have consulted on the CBA and have not received evidence that suggests we reached a wrong conclusion.

Some Core firms may choose to adopt elements of the Enhanced tier, but this is not required under the rules. As a result, we have not included any additional costs from voluntary compliance with the SM&CR.

The analysis in the original CBA (and final CBA) considers the impact of the SM&CR on groups with entities which are already subject to SM&CR. Firms were asked for the incremental costs of the new regime over and above the existing Approved Persons Regime and some survey respondents are part of groups already subject to SM&CR. The compliance cost estimates and the analysis in the CBA are therefore based on the additional costs of the SM&CR. We have considered different types of firms by designing 3 categories of firms within the SM&CR ('tiers'). The CBA concludes that the SM&CR is likely to be net beneficial overall.

Subheadings and table headings in the CBA clarify which parts of the compliance cost analysis and illustrative measurements of the likely benefits refer to solo-regulated firms and insurers. The existing academic literature does not allow us to discuss the non-quantifiable costs or benefits separately for solo-regulated firms or insurers.

The CBA shows that the SM&CR is expected to lead to significant compliance costs for firms, but also to significant benefits. The per firm estimates presented in the CBA are based on weighted averages of the firms in our sample. We believe that respondents who felt that our analysis underestimates the compliance costs are likely to be larger firms or have more complex governance structures than most other firms in their tier. Those who responded to the survey are larger firms which have submitted high cost estimates. None of the respondents has provided any extra evidence that would allow us to assess these comments further.

We discuss the main reasons for leaving out certain cost categories from the cost estimates included in pages 18 to 20 of the original CBA.

The costs incurred by the FCA for the implementation of the SM&CR will be recovered separately from industry.

The CBA does not use banking firms' compliance costs because banks are different from solo-regulated firms and insurers. Estimates based on their costs would therefore not be representative for firms in scope of the SM&CR. As the SM&CR differs from the Senior Managers Regime for banks, compliance costs for these two regimes will likely differ.

### **Average costs**

The average compliance costs discussed in the original CBA and in the CBA accompanying this PS are the averages over all the cost estimates provided by the survey respondents for each given tier. These averages

have been weighted to ensure they represent the different types of firms in the overall population. These averages are not typical costs – given the broad range of firms in scope of the SM&CR it is impossible to say which type of firm (for example, with a certain number of SMFs or employees) would typically incur such costs. Some firms will incur higher costs than the average and others will incur lower costs. We have used these averages to estimate the total compliance cost for all firms in each of the tiers.

We believe that the CBA fairly reflects the non-quantifiable costs. We note that respondents have not provided any detailed arguments or evidence otherwise. This includes concerns regarding consumer protection.

We have considered the following factors in the CBA:

- increased headcount: The cost categories in the survey included required adjustments firms must make, including recruitment costs, staff time for discussions of responsibilities, staff monitoring and record keeping. These adjustments may require an increase in headcount. We discuss the benefits of these activities in the CBA Chapter on benefits
- costs to amend IT systems and to develop and run training and development: These cost categories were included in the survey
- legal fees and administrative costs: Where these do not fall into the cost categories in the survey, respondents will have included those in the category 'other costs'
- higher executive compensation: see section 'Wage compensation' (p.31 of the original CBA)

The CBA measures the expected benefits as much as is possible. Further attempts to quantify these would have led to estimates that we believe would not have been sufficiently reliable.

The original CBA discusses the costs and benefits of the SM&CR for solo-regulated firms and insurers. The compliance cost for the three changes for banking firms are discussed in CP17/25 (at paragraph 41 of Annex 1). These were considered to be of minimal significance and did not require a CBA according to FSMA 138L(3)(b).

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# **Part 2: Feedback to CP17/40: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime**



## 10 Transitional Arrangements

### Who should read this chapter

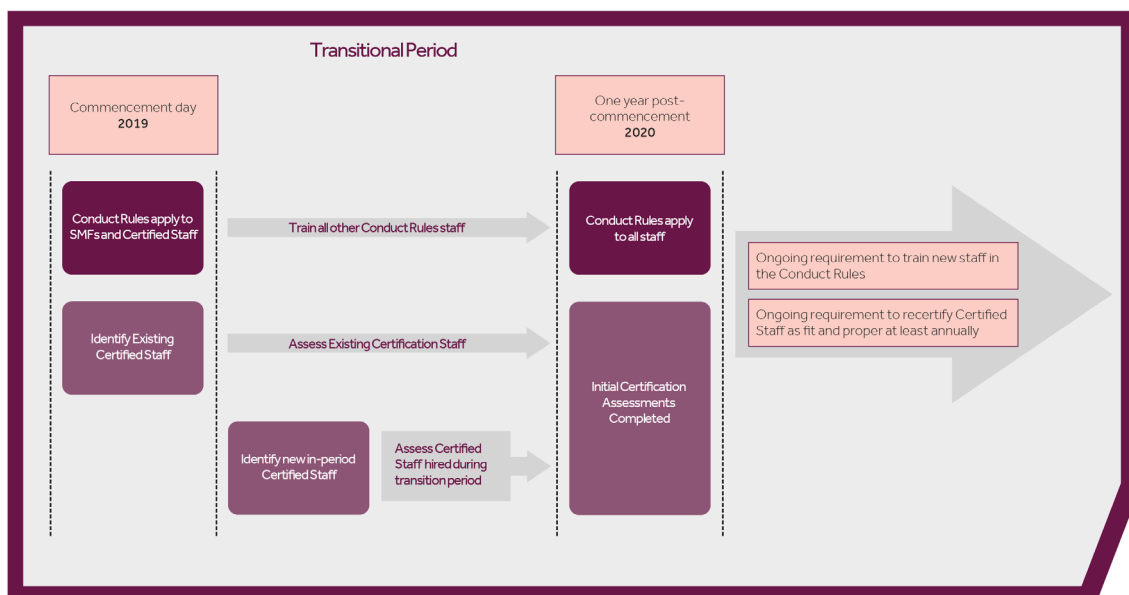
This chapter applies to all firms..

### Our proposals

**10.1** This chapter contains our response to feedback we received on the transitional arrangements we consulted on in CP17/40, including:

- the phased implementation of the Certification Regime
- the phased implementation of the Conduct Rules
- the requirement to check that the firm's information is correct on the Financial Services Register after automatic conversion

**Figure 2. Summary of transitional arrangements**



**10.2** For the purposes of the near-final rules that form part of this Policy Statement, we have assumed firms will have 12 months from the start of the regime to complete their fitness and propriety assessments and to get the certification paperwork in place. This is subject to commencement regulations to be made by HM Treasury.



## Feedback received

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### **Q1: Do you have any comments on our proposed transitional arrangements?**

- 10.3** Respondents asked us to communicate the start date for the new regime as soon as possible. They requested an extended time period between the publication of the final rules and the start of the SM&CR. Some respondents suggested we should allow the conversion process to start before Commencement. This would allow firms to identify and correct errors or omissions which occur during the automatic conversion process.
- 10.4** Some respondents asked us to clarify what firms should do if, after Commencement of the new regime, details in the Register about their Senior Managers are incorrect.
- 10.5** There were some practical suggestions to ease the transition process. These included asking us to provide dedicated support during transition and improvements we might make to the forms.
- 10.6** One person asked us to clarify what fitness and propriety checks firms should do during transition, and what firms should do about long-standing employees who change roles after start of the regime.
- 10.7** We were also asked to explain how the new regime will affect Appointed Representatives (ARs).

## Our response

### **Commencement dates and support during the transition process**

The Treasury has announced that the extension of the SM&CR will commence on 9 December 2019 for solo-regulated firms.

We have provided a guide to the regime and website content to help firms move to the SM&CR. Our Contact Centre is also available to help firms with any specific questions, as well as through firms' usual supervisory contacts. Contact details for the FCA are available on our [website](#).

### **Checking the Register after Commencement**

Firms must check that their approvals are correct on the Financial Services Register as soon as the new regime starts. If their approvals are incorrect then they should submit the relevant regulatory forms to correct this, as soon as possible. We encourage firms to ensure that their current approvals are up to date and also to check the Register before the new regime starts. This will minimise the number of errors that occur.

Firms can submit Form K conversion notifications to us up until a week before Commencement. This is to give firms as much time as possible to finalise their documentation. This means that we will be unable to provide provisional results of conversion ahead of the start of the new regime.

We will convert existing functions according to the mapping tables set out in Chapters 11 and 12. Firms can use these tables ahead of conversion to determine which of their controlled functions will be mapped to relevant SMFs. We have also published content on our website to help firms with this process.

### **Fitness and Propriety (F&P) checks**

We provide guidance on the things firms should consider when assessing an individual's fitness and propriety in the FIT sourcebook of our Handbook. This guidance is being retained under the SM&CR. Firms must decide for themselves the appropriate level of checks to conduct.

Applications under APR will use the existing forms, but applications using the new SM&CR forms will include the amended F&P questions consulted on in CP17/40.

### **Appointed Representatives**

As explained in CP17/40, legislation does not provide us with the power to extend the SM&CR to ARs. The Approved Persons Regime (APR) will continue to apply to ARs once the extended SM&CR comes into effect.

There is one exception, for Limited Permission Consumer Credit firms that are also ARs for other business. They will be in scope of the SM&CR rather than remaining under the APR. This is because the legal entity is authorised under FSMA. Governing functions at the AR side of these firms will be converted automatically to equivalent Senior Management Functions according to the mapping table for Core and Limited Scope firms (read Chapter 11). Individuals approved as CF30s for the AR will remain approved under this function.

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# 11 Conversion – Core and Limited Scope Firms (including branches)

## Who should read this chapter

This chapter is relevant to Core and Limited Scope firms, and branches.

## Our proposals

**11.1** This chapter contains our response to the feedback we received on the conversion approach for Core and Limited Scope firms we consulted on in CP17/40, including:

- mapping APR controlled functions to SMFs
- our proposal to convert relevant approvals at Core and Limited Scope firms automatically
- our approach to new and in-flight applications by Core and Limited Scope firms
- our approach to Core and Limited Scope firms applying for authorisation ('applicant firms')

**11.2** The final mapping of APR to SM&CR controlled functions at Core and Limited Scope firms is set out below.

**Table 7: Function mapping for Core and Limited Scope firms (including branches)<sup>11</sup>**

Current controlled function	Corresponding Senior Management Function(s)
CF1 – Director	SMF3 – Executive Director
CF2 – Non-Executive Director <sup>12</sup>	SMF9 – Chair
CF3 – Chief Executive	SMF1 – Chief Executive
	SMF19 – Head of Third Country Branch (Third Country Branches only)
CF4 – Partner	SMF27 – Partner
	SMF3 – Executive Director (Third Country Branches only)
CF5 – Director of Unincorporated Association	SMF3 – Executive Director
CF6 – Small Friendly Society Function	SMF3 – Executive Director
CF8 – Apportionment & Oversight	SMF29 – Limited Scope

11 Firms should note that the CF30 – Customer Function will no longer be approved under the SM&CR and is therefore not available for conversion mapping.

12 Non-Executive Directors at Core and Limited Scope firms who are not the firm's Chair will no longer be approved by the FCA.

Current controlled function	Corresponding Senior Management Function(s)
CF10 – Compliance Oversight	SMF16 – Compliance Oversight
CF11 – Money Laundering Reporting Officer (MLRO)	SMF17 – MLRO
CF29 – Significant Management Function <sup>13</sup>	SMF21 – EEA Branch Senior Management Function

## Function mapping for Core and Limited Scope firms

### Feedback received

**Q2: Do you have any comments on our proposed mapping of functions for Core and Limited Scope firms?**

- 11.3** There was much support for the proposed mapping of APR functions to SM&CR functions for Core and Limited Scope firms.
- 11.4** Respondents made a number of alternative suggestions regarding how CF roles should map to SMF roles. These included:
- that the APR CF29 – Significant Management Function should map to the SMF18 – Other Overall Responsibility Function
  - the APR CF1 – Director function should map to the SMF9 – Chair function without requiring an additional approval for a governing function
- 11.5** Respondents also asked us to clarify:
- what firms should do if they want to map roles in a different way from the proposals
  - whether Senior Managers subject to automatic conversion have a permanent exemption from submitting Statements of Responsibilities
  - if firms with Partners (CF4s) who don't meet the definition of a Senior Manager should cancel their approvals ahead of Commencement of the new regime to avoid automatic conversion to an SMF role
  - whether the SMF16 – Compliance Oversight role will assume responsibility for the current CF10a – CASS Oversight role

### Our response

#### Alternative mapping suggestions

We have considered the alternative mapping suggestions but have decided not to make any changes to our proposed rules. The SMF18 – Other Overall Responsibility Function won't apply to Core or Limited

<sup>13</sup> This mapping only applies for EEA Branches. Individuals holding only CF29 at other Core firms won't be converted to a Senior Management Function.



Scope firms, so it won't be possible for these firms to convert existing CF29s to this function.

There will be individuals acting as Executive Chairs within the wide range of firms in scope of the extended SM&CR. In CP17/25, we explained that automatic conversion of individuals to the SMF9 – Chair function is not possible. This is because we currently approve Non-Executive Chairs under the CF2 – Non-Executive Director function and Executive Chairs are approved under another of the governing functions. As a result, we don't hold data on which individuals perform the Chair role.

If a Core or Limited Scope firm submits a Form K telling us that an individual holding the CF2 function should be converted to the SMF9 – Chair role, the firm does not have to send us a SoR for that person.

An Executive Chair currently performing the role under an executive governing function should:

- be automatically converted to the relevant governing function SMF
- apply for approval to perform SMF9 by submitting short Form A and a SoR covering both functions

This reflects the additional responsibilities that distinguish an Executive Chair from a Non-Executive Chair.

### Clarifications

The mapping table set out above shows the only direct conversions that will be possible for Core and Limited Scope firms. If firms need to move an individual into an unmapped role, they must submit either a Form A (to apply for new approval), or a Form E (to transfer an existing approved person to a new role that does map). There is information on our website to help firms work out what they need to do in a variety of scenarios.

All Senior Managers should have a SoR, but Core and Limited Scope firms are not required to submit these for people converted at Commencement. This is a 'one-off' exemption that only applies at Commencement. It will enable us to automatically convert the vast number of individuals holding controlled functions under the APR to their relevant Senior Management Function(s). If a SoR is updated after Commencement, the updated version will need to be submitted to us using Form J.

Where an individual's SoR is updated due to a significant change in their responsibilities, firms must send the revised version to the FCA using Form J. This applies regardless of whether the individual was converted or a SoR was previously submitted. Core and Limited Scope firms that submit new applications for approval under the SM&CR must also send a SoR.

If firms have individuals currently approved in mappable roles who don't meet the definition of a Senior Manager, they must submit, before the start of the regime, a Form C to take effect on the start of the regime.

If they don't, the individual's function will be shown on the Register as converted to a Senior Management Function at the start of the SM&CR.

There is no proposal for the SMF16 – Compliance Oversight Function to assume the responsibilities for the CF10a – CASS Operational Oversight Function under the APR. We have set out additional feedback on CASS in Chapter 3.

Before they move from the APR to the SM&CR, we encourage firms to consider whether partners currently approved under CF4 – Partner Function meet the SMF definition. If they don't, then firms will need to submit a Form C to cancel that Partner's approval.

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## Conversion for Core and Limited Scope firms

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### Feedback received

#### **Q3: Do you have any comments on our approach to conversion for Core and Limited Scope firms?**

- 11.6** The majority of respondents agreed with our approach to conversion for Core and Limited Scope firms.
- 11.7** Many respondents requested that we provide support to firms during the conversion process. Suggestions included:
- making the forms available as soon as possible
  - a facility for large firms and trade bodies to test automated systems ahead of Commencement
  - dedicated helplines
  - clarity on what happens if the Register is not updated in time
  - publishing reminders about firms' responsibilities
- 11.8** Some respondents asked us to clarify the process by which firms move or 'opt-up' between the Core and Enhanced tiers.
- 11.9** A respondent asked us to confirm whether submitting a conversion notification prior to Commencement is sufficient to meet the obligations under the regime in the event we don't process the notification or update the Register in a timely manner. Another respondent asked us when the new forms will be available on the Connect system and the processing time of Service Level Agreements (SLA) for SMF roles.



## Our response

### Support and systems during conversion

To support firms in moving to the SM&CR, we plan to make the relevant forms available in Connect three months before the regime starts. While we won't allow firms to test the facility in advance, we will install and test our systems to ensure they will be ready for all firms.

We have also published material on our website and provided guides to the regime to assist firms in understanding the requirements. In addition, our Customer Contact Centre will be available to help answer any questions.

If a firm submits a conversion notification (Form K) prior to Commencement and within the specified time period with all relevant information, this will be sufficient to meet the obligations to transition to the new regime.

### Opting up

In Chapter 6 we explained the process for opting up, once the regime has started, in our response to Q21. We also recognise that some firms will want to opt-up from the start of the SM&CR.

To allow this, we will make it possible for firms to notify us of their intention to opt-up ahead of Commencement using a pre-Commencement version of Form O.

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## New and in-flight applications for Core and Limited Scope firms

### Feedback received

#### Q4: Do you have any comments on our approach to new and in-flight applications by Core and Limited Scope firms?

- 11.10** The majority of respondents agreed with our approach to new and in-flight applications by Core and Limited Scope firms.
- 11.11** Many respondents put forward practical suggestions, including:
- having a 12-month gap between publication of the final rules and Commencement
  - making the new forms available only at Commencement to avoid confusion
  - providing an online tool to help firms work out which forms to use
- 11.12** A respondent asked us to clarify whether an in-flight application using the old Form A will be converted by:
- us granting approval as if it was an APR application and then automatically converting the role to SM&CR



- whether the conversion means it will be treated as an SM&CR application which requires Statements of Responsibilities

**11.13** We were also asked to clarify:

- whether the '12-week rule' applies to firms after Commencement if their applications were not processed by us in time. The rule allows an individual to cover for a Senior Manager without approval for up to 12 weeks
- what submitting an application in 'good time' means

### Our response

#### Suggested changes to our approach

The Treasury has announced that the extension of the SM&CR to FCA solo-regulated firms will commence on 9 December 2019. This means that firms have approximately 18 months to prepare for the new regime.

Some firms will wish to apply for new individuals to take up SMFs at the start of the new regime. We will, therefore, make the new SM&CR forms available before Commencement so that firms can get these individuals approved as quickly as possible. We are mindful of the need for clarity around APR and SM&CR forms in the lead up to the start of the new regime and have considered this in the design of the amended Connect system.

We have published a guide to the regime on our website to help firms understand what they need to do to prepare for the SM&CR.

#### Clarifications

In CP17/40, we proposed to convert in-flight applications automatically and we intend to implement this approach. This covers all applications submitted but not processed by the start of the new regime.

If an application submitted by a Core firm is still being processed at the start of the new regime, we will convert the application to one for an SMF. The SMF will become effective at the date of approval. For example, an application under APR for a CF1 – Director function will be converted to an application for SMF3 – Executive Director upon approval. If an application is submitted under the APR, a Statement of Responsibilities will be required to be submitted as soon as possible after Commencement if the application is converted in-flight (ie is not approved prior to Commencement).

The 12-week rule period starts again at the start of the new regime. This means that if an individual is performing an APR controlled function under the 12-week rule at Commencement, and the function converts to an SMF, they can continue to cover this role for up to another 12-weeks without approval.

CP17/40 set out our intention to process all applications ahead of conversion, as long as they are submitted in good time. We will



communicate the cut-off dates to firms nearer to the time. After that date, we can't guarantee that applications will be processed ahead of the start of the SM&CR.

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## Core and Limited Scope applicant firms

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### Feedback received

#### Q5: Do you agree with our approach to Core and Limited Scope applicant firms?

- 11.14** Respondents supported our approach to Core and Limited Scope applicant firms.
- 11.15** Some respondents suggested that our proposal to apply the APR until Commencement is disproportionate. They suggested a 12-week transition period before Commencement for Limited Scope and Core firms in which we won't sign-off new appointments.

### Our response

We will maintain the APR until the start of the SM&CR to avoid creating a gap in our rules. This also ensures that all relevant approved individuals will be appropriately converted.

The existing 12-week rule will continue in force for temporary appointments to Significant Influence Functions (SIFs) until the new regime begins. However, the 12-week rule will not apply to someone whose appointment is meant to be permanent. Therefore, if it is intended that the new person should be in post before the SM&CR begins, the firm will have to apply for them to be approved under the APR even if the gap between appointment and the start of the SM&CR is short. The APR 12-week rule does not apply to the CF30 – Customer Dealing Function.

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## 12 Conversion – Enhanced Firms

### Who should read this chapter

This chapter only applies to Enhanced firms, or firms intending to opt-up to the Enhanced tier of the regime.

### Our proposals

- 12.1** This chapter contains our response to the feedback we received on the conversion approach we consulted on in CP17/40, including:
- mapping APR controlled functions to SMFs
  - converting individuals at Enhanced firms
  - our approach to new and in-flight applications by Enhanced firms
  - our approach to Enhanced applicant firms
- 12.2** The final mapping of APR to SM&CR controlled functions at Enhanced firms is set out below.

**Table 8: Function mapping for Enhanced firms<sup>14</sup>**

Current controlled function	Possible corresponding Senior Management Function(s)
CF1 – Director	SMF2 – Chief Finance Officer
	SMF3 – Executive Director
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
	SMF7 – Group Entity Senior Manager
	SMF24 – Chief Operations
CF2 – Non-Executive Director	SMF9 – Chair
	SMF10 – Chair of the Risk Committee
	SMF11 – Chair of the Audit Committee
	SMF12 – Chair of the Remuneration Committee
	SMF13 – Chair of the Nomination Committee
	SMF14 – Senior Independent Director
	SMF7 – Group Entity Senior Manager

<sup>14</sup> Firms should note that the CF30 – Customer Function will no longer be approved under the SM&CR and is therefore not available for conversion mapping.



Current controlled function	Possible corresponding Senior Management Function(s)
CF3 – Chief Executive	SMF1 – Chief Executive
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF4 – Partner	SMF27 – Partner
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF5 – Director of Unincorporated Association	SMF3 – Executive Director
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF6 – Small Friendly Society Function	SMF3 – Executive Director
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF10 – Compliance Oversight	SMF16 – Compliance Oversight
CF10a – CASS Operational Oversight Function <sup>15</sup>	SMF18 – Other Overall Responsibility
CF11 – MLRO	SMF17 – MLRO
CF28 – Systems and Controls Function	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF29 – Significant Management Function	SMF18 – Other Overall Responsibility
	SMF24 – Chief Operations

## Feedback received

### Function mapping for Enhanced firms

**Q6: Do you have any comments on our proposed mapping of functions for Enhanced firms?**

**12.3** Most respondents agreed with our proposed mapping of functions for Enhanced firms.

**12.4** Respondents made a number of alternative suggestions regarding how APR functions should map to SMF roles. These included that:

- CF29 should map to SMF7 – Group Entity Senior Manager

<sup>15</sup> If an Enhanced firm elects not to convert an individual performing a CF10a (CASS Oversight) function to SMF18 (Other Overall Responsibility) function, then this individual will be expected to be certified under the Certification Regime. The CASS Prescribed Responsibility should then be allocated to the Senior Manager to whom the individual reports.

- CF1 – Director should map to SMF9 – Chair
- CF10 – Compliance Oversight should map to SMF5 – Head of Internal Audit

**12.5** We received a number of responses on the breadth of the SMF24 – Chief Operations function. These included the thought that there should be a separate SMF for IT and that the responsibilities for risk in the SMF24 role are too large for one person.

**12.6** It was suggested that the Enhanced definition of Executive Directors should also cover Group Executive Directors, as long as they hold a SMF function in at least one entity within the Group.

**12.7** One respondent suggested Form K should contain a section to present a case where a conversion could be allowed against unmapped functions.

**12.8** We were asked to clarify:

- whether the SM&CR covers both regulated and unregulated subsidiaries
- why the CF10 – Compliance Oversight function maps to the SMF24 – Chief Operations function
- if firms will be able to allocate a PR to one individual across several entities

## Our response

### Alternative mapping of functions

We have decided to implement the function mappings suggested in CP17/40 with two minor changes. These clarify that the CF5 – Director of Unincorporated Association and CF6 – Small Friendly Society Function cannot be converted to the SMF7 – Group Entity Senior Management Function. The conversion of these roles is based on their equivalence. We won't allow conversion of functions that don't follow the rules in these tables. To convert unmapped functions, firms will need to apply for new approvals using Form A, or use Form E to transfer individuals between roles.

We have not mapped the CF29 – Significant Management Function to the SMF7 – Group Entity Senior Manager Function. The functions included in the Group Entity Senior Manager Function are currently mainly included in the Director and Non-Executive Director functions under the APR and so a person currently carrying on the group role should already be approved for the APR Director or Non-Executive Director functions.

There will be individuals acting as Executive Chairs within the wide range of firms in scope of the extended SM&CR. A person currently performing the Chair role as an Executive Chair under a governing function will need to apply for the SMF9 function using a short Form A, in addition to their existing function being converted. This application should be accompanied by a SoR for the individual. Their current governing function should be included on the firm's Form K.



We have made SMF7 – Group Entity Senior Manager Function a separate function (rather than including it as part of the Executive Director function) as this is a different type of role, and it is important that it is transparent where someone is performing this. The function covers individuals operating in either an executive or non-executive capacity, whose role in the Group involves exercising significant influence in the UK firm.

We have not allowed the conversion of the CF10 – Compliance Oversight Function to the SMF5 – Head of Internal Audit. These are different roles representing different 'lines of defence'. If a firm has someone they think should map to the Head of Internal Audit Function, this person should currently be approved under the APR Systems and Controls Function, not the Compliance Oversight Function.

The SM&CR is designed to fit to a firm's structure and the application of the SMF24 – Chief Operations function will vary between firms. We set out guidance in SUP 10C.6B on where it may be appropriate for a firm to have more than one SMF24. We have also provided extra guidance on the areas that we would expect to be relevant to the SMF24 function in our Handbook.

### Clarifications

The SM&CR applies on a legal entity basis. This means that we can't apply elements of the regime at group level. If a regulated firm has an unregulated subsidiary, then the subsidiary won't be subject to the SM&CR. Whether staff at the subsidiary are subject to the SM&CR will depend on their relationship with the parent entity. It will also depend on whether they meet the test in FSMA 63E(9) to be considered an 'employee' of the parent (discussed earlier, in Chapter 5). The application of the Conduct Rules to 'employees' of the parent depends on whether their role involves financial services activities.

The potential mapping of the existing CF10 – Compliance Oversight Officer to the SMF24 – COO function was an error in the tables presented in the CP. This won't be a valid scenario for conversion and was not included in the legal instrument consulted on in CP17/40. The CF10 role can only directly map to the SMF16 – Compliance Oversight Function.

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## Conversion for Enhanced firms and applicant firms

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### Feedback received

- Q7:** Do you have any comments on our approach to conversion for Enhanced firms?
  
- Q9:** Do you agree with our approach to Enhanced applicant firms?

- 12.9** The majority of respondents agreed with the proposed approach to conversion for Enhanced firms.
- 12.10** Several respondents asked us to make the forms available as soon as possible and allow sufficient time ahead of Commencement for completion.
- 12.11** We were asked for clarification on whether regulatory references for the previous 6 years need to be obtained for existing Senior Managers and Certified Staff from Commencement

### Our response

#### Support and systems during conversion

We have addressed this feedback in Chapter 11.

#### Clarifications

Firms don't need to get regulatory references for existing employees, including any Senior Managers and Certified Staff, at Commencement.

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## New and in-flight applications for Enhanced firms

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### Feedback received

**Q8: Do you agree with our approach to new and in-flight applications by Enhanced firms?**

- 12.12** The majority of respondents agreed with our proposals for new and in-flight applications by Enhanced firms.
- 12.13** There were concerns that our requirement to list all relevant applications on Form K could delay when firms are able to submit it. This could be an issue for firms with high staff turnover or restructuring where they might not submit the form until the deadline.
- 12.14** A respondent asked us to clarify whether the '12-week rule' applies in the case of in-flight applications.

### Our response

#### Form K

In designing our approach to Form K submissions we took into account lessons learned from the implementation of the banking regime. To give firms as much time as possible to complete their Form K, we have set a deadline of one week before the start of the new regime to submit this form. This may mean that some firms leave it until quite late and we have factored this into our planning.



### **12-week rule**

If an individual performing a role under the 12-week rule before Commencement is still performing that role at the start of the new regime, the 12-week period resets. This means that the individual can use the rule for a role that would otherwise be a Senior Management Function for another 12 weeks. If they are in that role for longer than 12 weeks they will need to be approved by the FCA.

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## 13 Forms

### Who should read this chapter

This chapter applies to all firms.

### Our proposals

- 13.1** This chapter contains our response to the feedback we received on the changes to forms we consulted on in CP17/40.
- 13.2** The main changes being made to our regulatory forms are set out below. To reduce the different number of forms, we have combined overlapping versions and brought APR applications for Appointed Representatives into these new SM&CR versions.

**Table 9: List of amended/amalgamated forms for FCA solo-regulated firms**

Form Name	Affected Firms	Purpose
Form A (Long) – Application to perform controlled functions including Senior Management Functions	All	An application for an individual to perform a specified Senior Management Function (or, for Appointed Representatives only, controlled function) at the firm(s).
Form A (Short) – Application to perform controlled functions including Senior Management Functions	All	An application for an individual to perform a specified Senior Management Function (or, for Appointed Representatives only, controlled function) at the firm(s).
Form C – Notice of ceasing to perform controlled functions including Senior Management Functions	All	An application form used to cancel an individual approval.
Form D – Changes to personal information/ application details and conduct breaches/disciplinary action related to conduct	All	Used to notify the FCA of Conduct Rule breaches by Senior Managers, disciplinary action taken against Senior Managers and changes to personal information.
Form E – Internal transfer of a person performing a controlled function for solo-regulated firms	All	An application for an individual to change the approved function being performed.
Form I – Application for the Variation of a Conditional Approval for the performance of a Senior Management Function	All	An application for changes to the conditions associated with a conditional approval to perform a Senior Management Function.
Form J – Notification of Significant Changes in Responsibilities of a Senior Management Function Manager	All	A notification submitted to inform the FCA of significant changes to a Senior Manager's Statement of Responsibilities.



Form Name	Affected Firms	Purpose
Form K – Conversion Notification Form – FCA solo-regulated firms	Enhanced, Core on an exceptions basis	An application to convert the firm’s approved individuals from the Approved Persons Regime to new functions under the SM&CR. This can also be used to submit updates to a previous Form K.
REP008 – Notification of Conduct Rule Breaches and Disciplinary Action	All	Used to notify the FCA of Conduct Rule breaches (that resulted in disciplinary action) by Certification and Conduct Rules Staff but not SMFs, or to submit a nil return.
Statement of Responsibilities for solo-regulated SM&CR firms	All	A firm must use this template to create a Senior Manager’s Statement of Responsibilities. At approval it should be attached to a Form A, Form E or Form K submission.  A firm must also use this template when preparing an updated SoR and it should be attached to a Form I (application for the variation of a conditional approval) or Form J (notification of a significant change to a SoR) application.

**13.3** There are also some changes that we and the PRA are making to the Fitness and Propriety questions repeated in several solo and dual-regulated forms. The table below summarises these.

**Table 10: List of final amendments to fitness and propriety questions**

Form Section	Specific Reference	Explanation of change
Civil Proceedings	5.02.3(c)	This question asks whether the candidate is aware of any potential or current proceedings that may lead to a County Court Judgment (CCJ) or judgment debt against them. We have deleted the previous reference to claims over £1000.
Civil Proceedings	5.02.8	We have added text to include whether the candidate has ever been found by a judge or tribunal to have lied under oath and/or that their evidence was to be disbelieved.
Civil Proceedings	5.02.10	We have added a 10 year time limit to the period in which an individual has to declare if a firm in which the individual has held a position of influence has been: <ul style="list-style-type: none"> <li>• adjudged by a court to be civilly liable for any fraud, malfeasance, wrongful trading or other misconduct</li> <li>• the subject of a judgement debt or award against the firm</li> <li>• party to any other civil proceedings which resulted in an order against the firm other than above</li> </ul>

## Changes to forms

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### Feedback received

#### **Q10: Do you have any comments on our proposed changes to forms?**

- 13.4** Respondents broadly agreed with the proposed changes to forms.
- 13.5** A number of respondents provided feedback on our proposed Form A. They highlighted that the 5-year employment history required by the form was inconsistent with the requirement to obtain 6 years of regulatory references. We were also asked when a firm could use a short Form A.
- 13.6** Respondents commented on our proposed SoRs form. Some asked whether Core and Limited Scope firms needed to maintain these. We were also asked to make an editable document available for Core and Limited Scope firms. This would make it easier for them to create and update the SoRs of their Senior Managers.
- 13.7** Two respondents asked us to restructure the form to make it specific to particular sectors. Another asked us to provide a template and guidance notes for SoRs.
- 13.8** We were given feedback on user experience with Connect. These included the ability to print one document rather than printing in sections and changes to the permissions of users.
- 13.9** We received some ideas on ways to improve the forms. Suggestions included:
- ensuring the offline and online forms are entirely consistent
  - updating the forms to refer to the GDPR and Data Protection Act 2018 rather than the Data Protection Act 1998
  - addressing the difference between the Long Form A which asks for a 5 year employment history and the regulatory references requirements in our Handbook, which ask for a 6 year employment history

### Clarifications

- 13.10** Respondents asked us to clarify:
- which forms or sections Appointed Representatives should use
  - if forms should be submitted electronically or by post
  - whether a combined Responsibilities Map could be submitted on behalf of a group
  - what a summary of handover material might involve, as requested in Form A



## Our response

### Forms and Appointed Representatives

As part of our proposals for the extension of the SM&CR, we sought to streamline and reduce the number of regulatory forms. We worked with the PRA to remove the APR forms and relocate the sections that remain relevant to ARs to the new SM&CR versions.

ARs should therefore use the same forms as firms that are subject to the SM&CR. There are some sections of forms that are specific to ARs and these are clearly signposted. We think that incorporating these sections into the new forms is a better solution than having a separate form specifically for ARs.

To make it clear that ARs must adhere to the APR, we have amended the declarations on forms to refer explicitly to the Statements of Principle and Code of Practice for Approved Persons (APER). We confirm that Question 5.05.2 is not relevant for ARs.

### Form A

We acknowledge that our requirements regarding employment history are not identical between Form A and the regulatory reference requirements. When firms apply for Senior Managers to be authorised, we ask for information on their employment history for the last 5 years.

Our regulatory reference requirements require firms to obtain 6 years of employment history for Senior Managers and Certified Staff. This was introduced with the banking regime and is mirrored in the extension of the SM&CR. For firms subject to MiFID, European regulations require that we ask for 10 years' employment history.

Whilst the requirements differ, they are not contradictory. We therefore don't intend to change these rules at this time as we don't think it would be proportionate for all firms not subject to MiFID to provide 10 years' employment history.

Long Form A should always be used for a Senior Manager or Appointed Representative application, unless the individual meets the criteria for the submission of a Short Form A.

Short Form A should be used where:

- a) a currently approved individual is applying for an additional controlled function at the same firm
- b) an individual has stopped holding a controlled function at one firm and now needs approval to perform a controlled function at another firm within six months
- c) an individual is applying for a controlled function, and is already approved for a corresponding controlled function in the same group of functions (ie governing or required functions).

Specific detail on the use of forms is set out in our Handbook in SUP 10C Annex 2G.

Our rules provide guidance on what should be included in handover material in SYSC 25.4 and SUP 10C.10. This is only required for Enhanced firms.

### **Statements of Responsibilities**

Core and Limited Scope firms don't have to submit their Senior Managers' SoRs. They do have to create and maintain them for each individual Senior Manager at the firm from Commencement of the SM&CR. Firms told us that it would be easier to do this if we created a template for them to download and edit. We will consider the best way to help firms understand the requirements and will provide extra material in due course. We don't think that it is practical to restructure the SoRs form to make it specific to particular sectors. Firms have different business models and structures and need the flexibility to represent these properly.

The reference to the Data Protection Act has been updated in separate Handbook amendments, to reflect the recent legislative changes. We have also made consequential changes to bring the declarations sections of our forms into line with the GDPR.

We have also considered feedback on differences firms have experienced between the forms in the Handbook and our Connect system. In the Handbook versions, firms will see all questions included on a form, but many of these questions won't be relevant. For example, a Limited Scope firm looking at Long Form A in the Handbook will see 20 SMFs. However, the majority of these functions won't be displayed on Connect as they don't apply to them.

### **Consistency between Handbook and Connect**

We reviewed the forms to ensure consistency during the drafting of our rules. We have addressed feedback on inconsistencies in forms for our near-final rules. We will ensure consistency between the Handbook and our systems when these go live on Connect.

Some responses about regulatory forms related to user experience with Connect, such as requests for the ability to print forms in one document, rather than printing in sections. If you are experiencing issues using Connect, please contact our Customer Contact Centre for assistance.

### **Clarifications**

Firms should use our Connect system to submit forms. In the event that FCA systems are unavailable for a prolonged period there may be circumstances in which firms can submit using paper versions of the forms.

The SM&CR applies on a legal entity basis, which means that Responsibilities Maps should be drafted at the firm, rather than group, level.

Forms will be available three months before the start of the regime.



## Changes to Fitness & Propriety Questions

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### Feedback received

#### Q11: Do you have any feedback on our proposed amendments to the Fitness & Propriety questions?

- 13.11** The majority of respondents agreed with our proposed amendments.
- 13.12** Several respondents asked us to confirm that the rules on criminal records checks comply with current privacy law. Others had specific queries about the Disclosure and Barring Service (DBS), for example to confirm that firms will have the authority to register with the DBS. Another suggested that individuals should be able to access the DBS checking service and obtain certificates to submit to employers.
- 13.13** Some respondents queried the proposed 10 year time period for civil procedures disclosures. A few suggested a 5 year period was more appropriate and consistent with wider practice. A respondent noted candidates might not be able to answer questions about court judgements involving large firms at which they were an employee.
- 13.14** Several respondents queried the proposed requirement to disclose involvement in arbitration proceedings.
- 13.15** We were asked to confirm that declarations by candidates are sufficient evidence for firms to meet the employment requirements.
- 13.16** One respondent was concerned about how professional bodies which issue Statements of Professional Standing might engage in the SM&CR process, as they believe that it is difficult for trade bodies to discipline members.
- 13.17** We were also asked whether we will make any changes to the questions in Form A to reflect the Ministry of Justice consultation on aspects of Default County Court Judgements (CCJs).

### Our response

#### Fitness and Propriety Questions

Employers have legal obligations to process sensitive personal data, such as criminal records. We don't think it's appropriate for us to give guidance on privacy law. However, we want firms to be confident that they can comply with the SM&CR.

Firms will need to decide how they should obtain the criminal records checks they need. This may be through an umbrella organisation or by registering directly with the DB organisation. Our rules require the firm to obtain a criminal records check, rather than the candidate. A candidate's declaration in relation to criminal records checks would not be sufficient.

We will review any changes to the management of CCJs following the publication of any policy statement by the Ministry of Justice.

The new form introduces a time limit to some of the questions about civil proceedings. Previously, there was no time limit on this question.

This change is designed to make this requirement more proportionate. We have chosen a time limit of 10 years to recognise that civil proceedings can sometimes take many years to conclude.

We think it is reasonable for senior level candidates to disclose whether their previous firms have been subject to civil proceedings if they held a position of influence in those firms. This is because the applicants using the forms will be applying for senior roles and they should be mindful of such information. We removed Question 5.02.3(c), as we considered it to duplicate other questions asked in this section.

Disclosure of arbitration proceedings is only required for Solvency II firms. This is set out in our Forms but was incorrectly summarised in CP17/40 as potentially also applying to solo-regulated firms. Solo-regulated firms don't need to complete this section.

In relation to the employment requirements, some firms may wish to conduct further checks on what the candidate has declared. It is for firms to decide whether this is appropriate.

### **Professional bodies**

Professional bodies and trade bodies have an important role to play in strengthening professionalism amongst their membership.

We expect all bodies with responsibility for standards of professionalism of a group of individuals involved in UK financial services, whether through Royal Charter or otherwise, to have systems and controls in place to effectively supervise and enforce non-compliance by their members.

Where they issue Statements of Professional Standing, we already expect Accredited Bodies<sup>16</sup> to act in the public interest. They should work to raise consumer confidence and professional standards in retail investment advice and promote the profession.<sup>17</sup>

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## **Application of REP008 and the late returns fee**

### **Feedback received**

- Q12:** Do you have any comments on our proposal to extend the use of REP008 to all SM&CR firms?
- Q13:** Do you have any comments on our proposal to require a nil return to be submitted where no Conduct Rules breaches have occurred, and to apply the late returns fee to late or non-submitters of REP008?

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<sup>16</sup> [www.handbook.fca.org.uk/handbook/glossary/?filter-title=ACCREDITED+BODIES](http://www.handbook.fca.org.uk/handbook/glossary/?filter-title=ACCREDITED+BODIES)  
<sup>17</sup> [www.handbook.fca.org.uk/handbook/TC/App/6/1.html](http://www.handbook.fca.org.uk/handbook/TC/App/6/1.html)



- 13.18** The majority of respondents supported our proposed extension of REP008 to all SM&CR firms. Respondents generally supported our proposal to require a nil return and extend the late returns fee for late or non-submission.
- 13.19** Some suggested that REP008 and the nil returns requirement should not apply to different types of Limited Scope firms.
- 13.20** One suggested that for groups where employees have roles at multiple subsidiaries, it would be difficult to identify which legal entity should submit the report. In these cases a group return would be more suitable.
- 13.21** Several respondents requested we send reminders to firms ahead of the REP008 due submission date. Another respondent asked us to allow firms to set a timetable that aligns with other relevant regulatory reporting dates.
- 13.22** There were some questions about our proposal on nil returns. They included:
- the argument that if REP008 is not submitted it is reasonable to assume a breach has not occurred
  - the suggestion that it is inconsistent to require a sole trader to submit a self-certifying return each year
- 13.23** We were also asked for more guidance on the reporting of Conduct Rule breaches.

### Our response

Our Conduct Rules are intended to drive up standards of behaviour in financial services. They represent a meaningful change in the standards of behaviour we expect from people working in the industry. For this reason they will apply to all solo-regulated firms, including those in the Limited Scope tier.

#### Group submissions

The SM&CR applies on a legal entity basis and our Conduct Rule reporting requirements are consistent with this. If an individual works across more than one entity within a group, breaches should be reported under the firm in which the individual meets the definition of an employee, and was undertaking the activity related to the breach.

Under FSMA s.63E(9), an employee in this context is defined as:

- a person who personally provides, or is under an obligation personally to provide, services to [a firm] under an arrangement made between [a firm] and the person providing the services or another person, and
- is subject to (or to the right of) supervision, direction or control by [a firm] as to the manner in which those services are provided



### Reporting schedules and reminders

We have considered aligning the annual reporting requirement to a firm's existing regulatory reporting schedule. We understand this could be helpful to some firms. However, the requirement is designed to align with the banking regime and provide a consistent industry reporting date. For firms with mixed groups (eg banking groups that contain asset managers), we understand that changes could create a complex and inconsistent set of requirements. It would mean different entities having to report the same information for different periods.

We want to be able to compare the same period of data across the whole industry. We therefore intend to retain the proposed reporting period of 1 September to 31 August each year for the majority of firms. For Limited Permission Consumer Credit firms – the majority of whom constitute our very smallest firms – we have decided to align the reporting period for this return with their annual reporting cycle.

We considered whether it would be appropriate to extend this change to other small firms but concluded that it is only appropriate to do so for these particular firms.

As with all of our regulatory reporting, firms will receive 3 email reminders from our GABRIEL reporting system ahead of the REP008 due date.

### Nil returns and the late returns fee

As the Conduct Rules are designed to raise standards of conduct across the industry, we think that it is appropriate and proportionate to ask firms to confirm whether there have been any Conduct Rule breaches during the year. Where there have been none we will make it quick and easy to confirm this through a nil return on GABRIEL. It will clarify whether a firm has had no Conduct Rule breaches during the period, or has simply failed to report those that have occurred. This will help us assess trends across the industry.

REP008 will apply to sole traders because the Conduct Rules will apply to employees of a sole trader, where they have staff. We won't be able to distinguish between sole traders with employees, and those without. The circumstances of these firms may change over time. Where a sole trader has no employees, it will be quick and simple for them to submit a nil return using GABRIEL.

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## 14 Consequentials

### Who should read this chapter

This chapter applies to all firms.

### Our proposals

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- 14.1** This chapter contains our response to the feedback we received on the consequential amendments proposed in CP17/40.
- 14.2** These included:
- a series of consequential amendments to reflect the retention of the APR for ARs
  - amendments to glossary definitions
  - the application of gender-neutral language
  - extra guidance on the SMF24 – Chief Operations function

### Consequential amendments

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#### Feedback received

**Q14: Do you have any comments on our proposed consequential amendments?**

- 14.3** Respondents broadly agreed with the proposals.
- 14.4** Some respondents suggested subjecting firms to both the APR and SM&CR might confuse and burden firms. One person asked us to explain why we plan to retain the APR for ARs. Some others asked us to clarify how principal firms subject to the SM&CR should oversee ARs subject to the APR.
- 14.5** There were requests to re-structure our Handbook into different sections covering each type of firm or business eg asset managers, intermediaries, credit firms. Another person asked us to establish separate rulebooks for Limited Scope, Core and Enhanced firms. One other suggested that an SMF's SoR form should only reference the list in SYSC 25 Annex 1 if the activities are relevant to their industry sector. We were also asked to confirm that references to 'shared services' relate to banks and not asset managers.

- 14.6** One respondent expressed concern that we had classified the proposed changes to the remit of SMF24 – Chief Operations function as ‘consequential amendments’. Two further respondents were concerned that the categorisation of SMF24 is not appropriate for all firms. Another asked us to confirm that only one individual holds the SMF24 function.

### Our response

#### **APR and the SM&CR**

The APR and the SM&CR won't apply at the same time to the same firms. As soon as the SM&CR commences, APR will no longer apply to FSMA-authorized firms.

As previously stated, the APR will continue to apply to Appointed Representatives. This is because the legislation does not give us power to apply the SM&CR to them. Principal firms, including the Senior Managers of principal firms, remain fully responsible for ensuring that their ARs and networks comply with our rules, including the APR. Firms should already have structures and processes in place to do this.

#### **Structure of Handbook**

We recognise that there are different sections in our Handbook that firms need to navigate to understand the SM&CR. However, most elements of the SM&CR are applicable to all firms. For example, the Certification Regime, the Conduct Rules and Fit & Proper requirements are the same for almost every firm. This means that creating sourcebooks for each tier of the regime would lead to a lot of duplication in our Handbook. SYSC 23 summarises the whole of the SM&CR and explains where the relevant Handbook material can be found for each element.

The main differences are in how the Senior Managers Regime applies to firms. In particular, the SMFs and PRs that apply, and the rules around Overall Responsibility, Responsibilities Maps and handover procedures. We have tried to mark these clearly in the Handbook, for example using tables showing how the requirements apply to different firms. We also flagged in our Mission that we would review our Handbook after the work on the outcome on EU withdrawal is clear. Until then, we don't intend to do further work on changing the structure of our Handbook.

#### **SYSC 25 Annex 1**

We confirm that there is no requirement for firms to refer to the activities and business areas in SYSC 25 Annex 1. This is made clear in SYSC 25.7.2 and in 8.27 of CP17/25 – ‘Firms may find it useful to refer to Annex 1 of SYSC 25 as a starting prompt to think about their own business is organised, but this is not mandatory or exhaustive’. There is similar guidance on Form A that makes it clear that this Annex is not mandatory or exhaustive.



### **Chief Operations Function**

We have set out a number of examples of how the SMF24 – Chief Operations Function could apply, in SUP 10C.6B. This will depend on how the firm is organised and how it has allocated responsibility for the firm's internal operations and technology.

We confirm that the additional guidance on SMF24 – Chief Operations Function, including on shared services, applies to all Enhanced firms, not just banking firms.

We have given further feedback on this function in the section on SMFs for Enhanced firms.

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## 15 Changes affecting banking firms

### Who should read this chapter

This chapter only applies to banking firms.

### Our proposals

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- 15.1** This chapter contains our response to the feedback we received on our proposed changes affecting banking firms.

### Conduct Rules PR implementation date

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#### Feedback received

**Q15: Do you agree with our proposal to implement the new Conduct Rules Prescribed Responsibility for firms subject to the Banking Regime ahead of the Commencement of the extended SM&CR?**

- 15.2** The majority of respondents agreed with the timing approach for implementing the new Conduct Rules PR.

- 15.3** Several respondents made suggestions:

- Commencement for banks should be the same as for the wider regime, with banks implementing the change ahead of time on a voluntary basis
- the PR holder should be required to have professional qualifications or meet professional standards

### Our response

Banking firms are already required to train staff on the Conduct Rules. We think that allocation of the new PR is an incremental change for these firms. We will implement the new PR on 1 November 2018 and intend to make the relevant updated forms available for submission from the first half of September. Firms must submit the relevant documentation by 1 November.

By commencing the PR ahead of the Commencement date for insurers, we will ensure that we are able to efficiently process Forms J and updated SoRs, and avoid unnecessary delays.



We don't think that it would be appropriate to require the PR holder to hold specific qualifications. It is for firms to determine who the most appropriate Senior Manager to hold the PR.

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## Application of the Late Returns Fee for REP008 to banking firms

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### Feedback received

**Q16:** Do you have any comments on our proposal to apply the late returns fee to late or non-submitters of REP008?

**15.4** Respondents agreed with the proposed changes.

### Our response

We will apply the Late Returns Fee as planned.

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## Annex 1

# List of non-confidential respondents

This Policy Statement incorporates feedback to two SM&CR Consultation Papers for solo-regulated firms – CP17/25 and CP17/40. Where relevant, feedback to the equivalent CPs for insurers (CP17/26 and CP17/41) has also been considered. We also engaged over 2000 individuals as part of our regional and industry engagement.

We have included respondents who only provided feedback on the Register but this feedback will be fed into a separate consultation in due course.

The following respondents provided non-confidential feedback to our consultations:

### CP17/25

Ablestoke Wealth Management  
Aegon UK  
Age Partnership  
Alternative Investment Management Association (AIMA) & Managed Funds Association (MFA)  
AJ Bell  
Alan Duff  
Alan Kendrick  
Alastair Lyon  
Alex De Silva & Co  
Alva Capital  
Amati Global Investors  
Anders Bayley Scott  
Anderson Strathern  
Andrew Formica  
Ashlea Financial Planning  
Ashwood Tax & Law  
Aspley Compliance  
Association of British Credit Unions (ABCUL)  
Association for Financial Markets in Europe (AFME) & UK Finance  
Association of Foreign Banks (AFB)  
Association of Investment Companies (AIC)  
Association of Mortgage Intermediaries (AMI)  
Association of Member-Directed Pension Schemes (AMPS)  
Association of Professional Compliance Consultants (APCC)  
Association of Short Term Lenders (ASTL)  
AXA UK  
Banking Standards Board (BSB)  
British Insurance Brokers Association (BIBA)  
BNY Mellon  
Board Strategy  
Bovill  
BPH Wealth Management  
British Retail Consortium (BRC)  
Brenda Santimano  
Brewin Dolphin



British Property Federation  
Broker Network  
Bryan Hollingsworth  
Building Societies Association (BSA)  
British Private Equity and Private Capital Association (BVCA)  
Callcredit Information Group  
Cambrian Associates  
Cameron Hume  
Capital One  
Charles Stanley & Co  
Chartered Banker Institute (CBI)  
Chartered Institute of Internal Auditors (CIIA)  
Christmas Financial Planners  
Chartered Institute of Insurers (CII) & Personal Finance Society (PFS)  
Chartered Institute for Securities & Investment (CISI)  
Clearview Independent Financial Advisors  
Confederation of British Industry (CBI)  
Consumer Finance Association (CFA)  
Coventry Building Society  
Credit Services Association (CSA)  
David Booth  
David de Freitas  
Dave Knight  
Dennis Hall  
Dentons  
Derek Baptist  
Derek Mckechnie  
Dewhurst Torevell & Co  
DWF  
Eastern Financial Consultants  
Elementary Financial Planning  
Elm Partners Management (UK)  
ELP Wealth  
Employment Lawyers Association (ELA)  
Enhance Support Solutions  
Equilibrium Asset Management  
ETF Securities (UK)  
European American Capital Services  
European Venues & Intermediaries Association (EVIA)  
Express Gifts  
Finance & Leasing Association (FLA)  
Financial Escape  
Financial Services Consumer Panel (FSCP)  
Fox Williams  
Fulcrum Compliance  
Funding Knight  
FXPRO UK  
Gemini Compliance Solutions  
GP Consulting  
GQ Employment Law  
Graham Pratley  
Grant Thornton  
GVS Prepaid



Hargreaves Lansdown  
Hartley Wadsworth and Partners  
Hartsfield Financial Services  
Henson Crisp  
HomeServe Membership  
HSBC  
Ian Line  
Institute of Chartered Accountants in England & Wales (ICAEW)  
ICE Futures Europe  
IDS Financial Services  
IFS Wealth & Pensions  
Independent Wealth Management Consultants  
Invesco Perpetual  
Investment Association (IA)  
Investor in Customers  
Irish League of Credit Unions (ILCU)  
Janus Henderson Investors  
JM Finn & Co  
Just Financial Group  
Kevin A Render  
Kevin Titmus  
Killik & Co  
Kingsley Napley  
KR Group  
Lark Group & Aston Scott  
Latham & Watkins  
LEBC Group  
LGT Vestra  
Little Venice Partners  
Liverpool John Moores University  
Loans 2 Go  
London and International Insurance Brokers' Association (LIIBA)  
Margaret Abrahams  
Mark Henderson  
Matrix Solutions  
Matthew Lambe  
McInroy & Wood  
Medics Financial Services  
Medius Consulting  
Mortgage Wyse  
Mr R.J. Martin  
My Jar  
N M Rothschild & Sons  
National Franchised Dealers Association (NFDA)  
National Pawnbrokers Association (NPA)  
Neil Rowland  
Nick Muir  
Otus  
Paul Wallis Financial Solutions  
Peter Dart  
Phillips 66  
PI Financial  
Personal Investment Management and Financial Advice Association (PIMFA)



Plutus Wealth Management  
Premium Credit  
Questa Chartered  
Quilter Cheviot Investment Management  
Raymond James  
Red Sky Capital Solutions  
Responsible Finance  
RFIB Group  
Rhys Jackson  
Riverfall Financial  
Rixons Wealth Management  
RKH Specialty  
Robinson Investment Solutions  
Rosediem  
Royal & Sun Alliance  
Russ Bublely  
SA Compliance Management  
Saga Services  
Schroders  
Sesame Bankhall Group  
Seven Financial Group  
ShareAction  
Simmons & Simmons  
SimplyBiz Group  
Society of Lloyd's  
Society Of Pension Professionals  
SSE  
St James Place Wealth Management  
Stirling House Financial Services  
Stockdale Asset Management  
Stonehage Fleming UK  
Strategic Insight  
TC Compliance Services  
Tenet  
The Cattellyst Consultancy  
The CFA Society  
The Law Society  
The Money Advice Trust  
The Pension Drawdown Company  
Thompson Heath and Bond  
THB Risk Solutions  
Thomson Gray Wealth Management  
Threesixty Services  
Throgmorton Financial Services  
Tilney Financial Planning  
Tax Incentivised Savings Association (TISA)  
TMA Mortgage Club  
Tom Ogg  
True Potential Wealth Management  
Truly Independent  
UK Crowdfunding Association (UKCFA)  
Unbiased Financial Group  
Unicorn Underwriting



USSIM  
Virgin Money  
Vouched For  
Wealth Harbour Services  
Wescot Credit Services  
Whitechurch Securities  
Willis Towers Watson  
Worksmart  
Zedra Trust Company (UK)  
Zurich

**CP17/40**

Association of Professional Compliance Consultants (APCC)  
Aviva  
Connells  
Create Solutions  
European Venues & Intermediaries Association (EVIA)  
The Investment Association (IA)  
Money Advice Trust  
RKH Specialty Limited  
Rosediem



## Annex 2

### Abbreviations in this document

<b>AFM</b>	Authorised Fund Manager
<b>AIF</b>	Alternative Investment Fund
<b>AIFMD</b>	Alternative Investment Fund Managers Directive
<b>APER</b>	Statements of Principle and Code of Practice for Approved Persons (Handbook)
<b>APF</b>	Authorised Professional Firm
<b>APR</b>	Approved Persons Regime
<b>AUM</b>	Assets Under Management
<b>Banking firms</b>	Banks, Building Societies, Credit Unions and PRA-designated Investment Firms
<b>BIPRU</b>	Prudential sourcebook for Banks, Building Societies and Investment Firms (Handbook)
<b>CASS</b>	Client Assets Sourcebook (Handbook)
<b>CBA</b>	Cost Benefit Analysis
<b>CCJ</b>	County Court Judgment
<b>CF</b>	Controlled Function
<b>COCON</b>	Conduct Rules (Handbook)
<b>COLL</b>	Collective Investment Schemes Sourcebook (Handbook)
<b>CP</b>	Consultation Paper
<b>CRD</b>	Capital Requirements Directive
<b>DBS</b>	Disclosure and Barring Service
<b>DEPP</b>	Decision Procedure and Penalties Manual (Handbook)
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>F&amp;P</b>	Fitness and Propriety
<b>FCA</b>	Financial Conduct Authority
<b>FEMR</b>	Fair and Effective Markets Review
<b>FIT</b>	The Fit and Proper Test for Approved Persons (Handbook)
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>GDPR</b>	General Data Protection Regulation
<b>HR</b>	Human Resources
<b>IFPRU</b>	Prudential Sourcebook for Investment Firms (Handbook)
<b>IT</b>	Information Technology

<b>MiFID</b>	Markets in Financial Instruments Directive
<b>MRT</b>	Material Risk Taker
<b>PCBS</b>	Parliamentary Commission on Banking Standards
<b>PR</b>	Prescribed Responsibility
<b>PRA</b>	Prudential Regulation Authority
<b>RMAR</b>	Retail Mediation Activities Return
<b>SIF</b>	Significant Influence Function
<b>SLA</b>	Service Level Agreement
<b>SM&amp;CR</b>	Senior Managers and Certification Regime
<b>SMF</b>	Senior Management Function
<b>SMR</b>	Senior Managers Regime
<b>SUP</b>	Supervision Manual (Handbook)
<b>SYSC</b>	Senior Management Arrangements, Systems and Controls (Handbook)
<b>TC</b>	Training and Competence Sourcebook (Handbook)
<b>UCITS</b>	Undertakings for Collective Investment in Transferable Securities
<b>UK</b>	United Kingdom

### Disclaimer

We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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# Appendix 1

## Near-Final Rules

**INDIVIDUAL ACCOUNTABILITY (FCA-AUTHORISED FIRMS) INSTRUMENT  
2018**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 55U (Applications under this Part);
  - (2) section 59 (Approval for particular arrangements);
  - (3) section 59AB(1) (Specifying functions as controlled functions: transitional provision);
  - (4) section 60 (Applications for approval);
  - (5) section 60A (Vetting candidates by authorised persons);
  - (6) section 61 (Determination of applications);
  - (7) section 62A (Changes to responsibilities of senior managers);
  - (8) section 63ZA (Variation of senior manager’s approval at request of authorised person);
  - (9) section 63ZD (Statement of policy relating to conditional approval and variation);
  - (10) section 63C (Statement of policy);
  - (11) section 63E (Certification of employees by authorised persons);
  - (12) section 63F (Issuing of certificates);
  - (13) section 64A (Rules of conduct);
  - (14) section 64C (Requirements for authorised persons to notify regulator of disciplinary action);
  - (15) section 69 (Statement of policy);
  - (16) section 137A (The FCA’s general rules);
  - (17) section 137T (General supplementary powers);
  - (18) section 138D (Action for damages);
  - (19) section 139A (Power of the FCA to give guidance);
  - (20) section 395 (The FCA’s and PRA’s procedures); and
  - (21) paragraph 23 of Schedule 1ZA (Fees).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [ ] 20[ ] [main commencement date for solo-regulated firms] except as follows :

Annex	Date comes into force
Part 1 of Annex B	[ ] 20[ ] [about six months before main commencement date for solo-regulated firms]

Part 1 of Annex J	[ ] 20[ ] [about six months before main commencement date for solo-regulated firms]
Part 1 of Annex Q	[ ] 20[ ] [about six months before main commencement date for solo-regulated firms]
Part 2 of Annex A	[ ] 20[ ] [one year after main commencement date for solo-regulated firms]
Part 2 of Annex C	[ ] 20[ ] [one year after main commencement date for solo-regulated firms]

### Amendments to the Handbook

- D. The FCA's Handbook of rules and guidance is amended in accordance with paragraphs E and F of this instrument.
- E. The modules of the FCA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Code of Conduct (COCON)	Annex C
Threshold Conditions (COND)	Annex D
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex E
Fit and Proper test for Employees and Senior Personnel (FIT)	Annex F
Prudential sourcebook for Investment Firms (IFPRU)	Annex G
Conduct of Business Sourcebook (COBS)	Annex H
Client Assets (CASS)	Annex I
Supervision manual (SUP)	Annex J
Dispute Resolution: Complaints (DISP)	Annex K
Credit Unions sourcebook (CREDS)	Annex L

- F. In each case in which one of the Annexes listed in column (2) of the table in paragraph E of this instrument says that the module of the FCA's Handbook of rules and guidance to which that Annex relates is amended by inserting a new form into that module as set out in Annex Q of this instrument, that module is amended accordingly.

### Amendments to the material outside the Handbook

- G. The material outside the Handbook listed in column (1) below is amended in accordance with the Annexes to this instrument listed in column (2) below:



(1)	(2)
The Energy Market Participants guide (EMPS)	Annex M
The Oil Market Participants guide (OMPS)	Annex N
Service companies guide (SERV)	Annex O
General guidance on Benchmark Administration, Contribution and Use (BENCH)	Annex P

### **Text amended by this instrument**

- H. The amendments made by this instrument are to the Handbook and the material listed in paragraph G of this instrument as amended by the Individual Accountability (Dual-Regulated Firms) Instrument 2018.

### **Citation**

- I. This instrument may be cited as the Individual Accountability (FCA-Authorised Firms) Instrument 2018.

By order of the Board  
[date] 2018

## Annex A

### Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

#### **Part 1: Comes into force [ ] 20[ ] [main commencement date for solo-regulated firms]**

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>APER employer</i>	(in <i>APER</i> and in relation to an <i>approved person</i> whose approval is given under <i>SUP</i> 10A (FCA Approved Persons in Appointed Representatives):
	(a) the <i>appointed representative</i> in relation to which that <i>approved person</i> performs the <i>controlled function</i> in <i>SUP</i> 10A; and
	(b) the <i>authorised approved person employer</i> .
	[Note: For the purposes of <i>Statements of Principle</i> 5 to 7 the <i>APER employer</i> only includes (a).]
<i>chair of the audit committee function</i>	<i>FCA controlled function</i> SMF11 in the table of <i>FCA-designated senior management functions</i> , described more fully in <i>SUP</i> 10C.5A.9R.
<i>chair of the governing body function</i>	<i>FCA controlled function</i> SMF9 in the table of <i>FCA-designated senior management functions</i> , described more fully in <i>SUP</i> 10C.5A.7R.
<i>chair of the remuneration committee function</i>	<i>FCA controlled function</i> SMF12 in the table of <i>FCA-designated senior management functions</i> , described more fully in <i>SUP</i> 10C.5A.10R.
<i>chair of the risk committee function</i>	<i>FCA controlled function</i> SMF10 in the table of <i>FCA-designated senior management functions</i> , described more fully in <i>SUP</i> 10C.5A.8R.
<i>chief finance officer function</i>	<i>FCA controlled function</i> SMF2 in the table of <i>FCA-designated senior management functions</i> , described more fully in <i>SUP</i> 10C.6A.3R.

<i>chief operations function</i>	<i>FCA controlled function SMF24 in the table of FCA-designated senior management functions, described more fully in SUP 10C.6B.2R.</i>
<i>chief risk officer function</i>	<i>FCA controlled function SMF4 in the table of FCA-designated senior management functions, described more fully in SUP 10C.6A.4R.</i>
<i>core SMCR firm</i>	<i>a firm identified as a core SMCR firm in the decision tree in SYSC 23 Annex 1 (Definition of SMCR firm and different types of SMCR firms).</i>
<i>EEA core SMCR firm</i>	<i>a core SMCR firm that is an incoming EEA firm or incoming Treaty firm.</i>
<i>enhanced scope SMCR firm</i>	<i>a firm identified as an enhanced scope SMCR firm in the decision tree in SYSC 23 Annex 1 (Definition of SMCR firm and different types of SMCR firms).</i>
<i>group entity senior manager function</i>	<i>FCA controlled function SMF7 in the table of FCA-designated senior management functions, described more fully in SUP 10C.5B.1R.</i>
<i>head of internal audit function</i>	<i>FCA controlled function SMF5 in the table of FCA-designated senior management functions, described more fully in SUP 10C.6A.6R.</i>
<i>head of third country branch function</i>	<i>FCA controlled function SMF19 in the table of FCA-designated senior management functions, described more fully in SUP 10C.5.24R.</i>
<i>limited scope function</i>	<i>FCA controlled function SMF29 in the table of FCA-designated senior management functions, described more fully in SUP 10C.6.5R.</i>
<i>limited scope SMCR firm</i>	<i>a firm identified as a limited scope SMCR firm in the decision tree in SYSC 23 Annex 1 (Definition of SMCR firm and different types of SMCR firms).</i>
<i>non-SMF board director subject to competence requirements</i>	<p><i>(in relation to an SMCR firm) a board director of the firm who meets the following conditions:</i></p> <ul style="list-style-type: none"> <li><i>(a) they are not an SMF manager of the firm; and</i></li> <li><i>(b) the firm is required to assess their fitness and propriety under the competent employee rule, SYSC 28 (Insurance distribution: specific knowledge, ability and good repute requirements) any directly applicable EU legislation or any other requirement of the regulatory system.</i></li> </ul>

<i>overseas core SMCR firm</i>	a <i>core SMCR firm</i> that is an <i>overseas firm</i> .
<i>senior independent director function</i>	<i>FCA controlled function</i> SMF14 in the table of <i>FCA-designated senior management functions</i> , described more fully in SUP 10C.5A.11R.
<i>UK core SMCR firm</i>	a <i>core SMCR firm</i> that is a <i>UK domestic firm</i> .

Amend the following definitions as shown.

<i>accountable functions</i>	(in relation to an <i>approved person</i> ) the functions described in <i>APER</i> 1.1A.2R, which are in summary: <ul style="list-style-type: none"> <li>(a) <i>FCA controlled functions</i> under SUP 10A (FCA Approved persons <u>in Appointed Representatives</u>); and</li> <li>...</li> </ul>
<i>advising on investments</i>	<ul style="list-style-type: none"> <li>(1) (except in SUP 10A (FCA Approved Persons <u>in Appointed Representatives</u>), SYSC 27 (Senior managers and certification regime: Certification regime), <i>APER</i> and <i>CONRED</i> 2) the <i>regulated activities</i>, specified in articles 53(1) to (1D) of the <i>Regulated Activities Order</i> (Advising on investments), which are: <ul style="list-style-type: none"> <li>(a) <i>advising on investments (except P2P agreements)</i>; and</li> <li>(b) <i>advising on P2P agreements</i>.</li> </ul> </li> <li>(2) (in SUP 10A (FCA Approved Persons <u>in Appointed Representatives</u>), SYSC 27 (Senior managers and certification regime: Certification regime) and <i>APER</i>) the <i>regulated activities</i> specified in articles 53(1) to (1D) and 53(2) (Advising on investments) of the <i>Regulated Activities Order</i>. For these purposes, <i>advising on investments</i> includes any activities that would be included but for the exclusion in article 72AA (Managers of UCITS and AIFs) of the <i>Regulated Activities Order</i>.</li> </ul>
<i>certification employee</i>	<ul style="list-style-type: none"> <li>...</li> <li>(2) ...</li> <li>(3) <u>(in relation to an SMCR firm that is an FCA-authorised person) an employee (as defined in section 63E of the Act)</u></li> </ul>

of an SMCR firm who performs a certification function under an arrangement entered into by the SMCR firm in relation to the carrying on by the SMCR firm of a regulated activity, even though the obligation of the SMCR firm to issue a certificate under section 63F of the Act has not yet come into force.

[Note: Paragraph (3) of this definition applies until [ ] 20[ ] [one year after commencement for solo-regulated firms].]

*chief executive function*

- (1) (for an SMCR firm) FCA controlled function SMF1 in the table of FCA-designated senior management functions, described more fully in SUP 10C.5.21R;
- (2) (in relation to an appointed representative) FCA controlled function CF3 the table of FCA controlled functions, described more fully in SUP 10A.6.17R.

*compliance oversight function*

- (1) ~~(for SMCR firms) FCA controlled function SMF16 in the table of FCA-designated senior management functions, described more fully in SUP 10C.6.1R; and~~
- (2) ~~(for other firms) FCA controlled function CF10 in the table of FCA controlled functions, described more fully in SUP 10A.7.8R.~~

*compliance requirements for SMCR firms*

any of the following requirements:

- (a) SYSC 3.2.8R (The compliance function);
- (b) SYSC 6.1 (Compliance);
- (c) article 22 of the *MiFID Org Regulation* (Compliance); ~~or~~
- (d) article 22 of the *MiFID Org Regulation* (as applied in accordance with SYSC 1 Annex 1 2.8AR, SYSC 1 Annex 1 3.2-AR, SYSC 1 Annex 1 3.2-BR, SYSC 1 Annex 1 3.2CR and SYSC 1 Annex 1 3.3R); or
- (e) article 61 of the AIFMD level 2 regulation (Permanent compliance function).

*controlled function*

a function, relating to the carrying on of a *regulated activity* by a *firm*, which is specified by:

- (a) either the FCA in:
  - (i) (for SMCR firms) the table of FCA-designated senior management functions; or

- (ii) ~~(for other firms and~~ in relation to *appointed representatives*) the *table of FCA controlled functions*; or
- ...
- director* (1) ...
- ...
- (c) (in *SYSC*, *COCON*, *MIPRU 2* (Responsibility for insurance distribution and *MCD* credit intermediation activity), *SUP 10A* (FCA Approved persons in Appointed Representatives) and *SUP 10C* (FCA senior managers regime for approved persons in SMCR firms) a *partnership*;
- (d) (in *SYSC* ~~and~~ *SUP 10A* (FCA Approved persons) and *SUP 10C* (FCA senior managers regime for approved persons in SMCR firms)) a *sole trader*;
- ...
- ...
- employee* ...
- (4A) (for the purposes of *SYSC 22* (Regulatory references)) has the same meaning as in (3) and, in addition, includes a person who:
- ...
- (c) performs any service or function for another *person* (“the employer”) in their capacity as an employee of another member of the employer’s *group*. For the purpose of (c) an employee of another member of the employer’s *group* means:
- ...
- (iii) a *person* who performs a function of that *group* member under an *arrangement* entered into by the *group* member or a contractor of the *group* member; or
- (d) is a board director of a person (the “employer”) who is not an SMF manager or certification employee of the employer.

<i>FCA controlled function</i>	<p>a <i>controlled function</i> which is specified by the <i>FCA</i> under section 59 of the <i>Act</i> (Approval for particular arrangements) in:</p> <p>(a) (for <i>SMCR firms</i>) the <i>table of FCA-designated senior management functions</i>; or</p> <p>(b) <del>(for other firms and</del> in relation to <i>appointed representatives</i>) the <i>table of FCA controlled functions</i>.</p>
<i>FCA required functions</i>	<p>any of the <i>FCA controlled functions</i> labelled as <i>FCA required functions</i> in :</p> <p>(a) <del>(for SMCR firms)</del> the <i>table of FCA-designated senior management functions</i>; <del>or</del> .</p> <p>(b) <del>(for other firms)</del> the <i>table of FCA controlled functions</i>.</p>
<i>internal audit requirements for SMCR firms</i>	<p>any of the following requirements:</p> <p>(a) <i>SYSC 3</i> (Systems and controls) insofar as it relates to internal audit;</p> <p>(b) <i>SYSC 6.2</i> (Internal audit);</p> <p>(c) article 24 of the <i>MiFID Org Regulation</i> (Internal audit); <del>or</del></p> <p>(d) article 24 of the <i>MiFID Org Regulation</i> (Internal audit) (as applied in accordance with <i>SYSC 1 Annex 1 2.8AR</i>, <i>SYSC 1 Annex 1 3.2-AR</i>, <i>SYSC 1 Annex 1 3.2-BR</i>, <i>SYSC 1 Annex 1 3.2CR</i> and <i>SYSC 1 Annex 1 3.3R</i>); <u>or</u></p> <p>(e) <u>article 62 of the <i>AIFMD level 2 regulation</i> (Permanent internal audit function).</u></p>
<i>money laundering reporting function</i>	<p>(1) <del>(for SMCR firms)</del> <i>FCA controlled function</i> SMF17 in the <i>table of FCA-designated senior management functions</i>, described more fully in <i>SUP 10C.6.2R</i>; <del>and</del> .</p> <p>(2) <del>(for other firms)</del> <i>FCA controlled function</i> CF11 in of the <i>table of FCA controlled functions</i>, described more fully in <i>SUP 10A.7.10R</i>.</p>
<i>partner function</i>	<p>(1) (for an <i>SMCR firm</i>) <i>FCA controlled function</i> SMF27 in the <i>table of FCA-designated senior management functions</i>, described more fully in <i>SUP 10C.5.14R</i> to <del><i>SUP 10C.5.17R</i></del> <u><i>SUP 10C.5.19R</i></u>;</p> <p>(2) <del>(for other firms and</del> in relation to <i>appointed representatives</i>) <i>FCA controlled function</i> CF4 in the <i>table of FCA controlled</i></p>

*functions*, described more fully in SUP 10A.6.23R to SUP 10A.6.27R.

<i>proprietary trader</i>	(in SYSC 27 (Senior managers and certification regime: Certification regime), SUP 10A (FCA Approved Persons <u>in Appointed Representatives</u> ), COCON and APER) a <i>person</i> (A) whose responsibilities include committing another <i>person</i> (B) as part of B's <i>proprietary trading</i> .
<i>proprietary trading</i>	(in SYSC 27 (Senior managers and certification regime: Certification regime), SUP 10A (FCA Approved Persons <u>in Appointed Representatives</u> ), COCON and APER) <i>dealing in investments as principal</i> as part of a business of trading in <i>specified investments</i> . For these purposes <i>dealing in investments as principal</i> includes any activities that would be included but for the exclusion in Article 15 (Absence of holding out), Article 16 (Dealing in contractually based investments) or, for a UK AIFM or UK UCITS management company, article 72AA (Managers of UCITS and AIFs) of the <i>Regulated Activities Order</i> .
<i>risk control requirements for SMCR firms</i>	any of the following requirements: <ul style="list-style-type: none"> <li>(a) SYSC 3 (Systems and Controls) insofar as it relates to risk controls;</li> <li>(b) SYSC 7.1.6R, SYSC 7.1.21R and SYSC 7.1.22R;</li> <li>(c) COLL 6.11 (Risk control and internal reporting);</li> <li>(d) article 23 of the <i>MiFID Org Regulation</i> (Risk management); øf</li> <li>(e) article 23(2) of the <i>MiFID Org Regulation</i> (as applied in accordance with SYSC 1 Annex 1 2.8AR, SYSC 1 Annex 1 3.2-AR, SYSC 1 Annex 1 3.2-BR, SYSC 1 Annex 1 3.2CR and SYSC 1 Annex 1 3.3R); <u>or</u></li> <li>(f) <u>articles 38 to 45 of the AIFMD level 2 regulation (Risk management)</u>.</li> </ul>
<i>significant-influence function</i>	(for the purposes of <i>controlled functions</i> specified in SUP 10A (FCA Approved persons <u>in Appointed Representatives</u> ) and in relation to the carrying on of a <i>regulated activity</i> by an <i>authorised person</i> ) a function that is likely to enable the <i>person</i> responsible for its performance to exercise a significant influence on the conduct of the <i>authorised person's</i> affairs, so far as relating to the activity.
<i>staff being assessed under FIT</i>	(in FIT and in relation to an SMCR firm) those <i>persons</i> set out in FIT 1.1.1G(4) to <del>(7)</del> (8).



Delete the following definitions. The text is not shown struck through.

<i>apportionment and oversight function</i>	<i>FCA controlled function CF8 in the table of FCA controlled functions, described more fully in SUP 10A.7.1R.</i>
<i>CASS operational oversight function</i>	<i>FCA controlled function CF10a in the table of FCA controlled functions, described more fully in SUP 10A.7.9R.</i>
<i>significant management function</i>	<i>FCA controlled function CF29 in the table of FCA controlled functions, described more fully in SUP 10A.9.9R.</i>
<i>small friendly society function</i>	<i>FCA controlled function CF6 in the table of FCA controlled functions, described more fully in SUP 10A.6.31R to SUP 10A.6.32R.</i>
<i>systems and controls function</i>	<i>FCA controlled function CF28 in the table of FCA controlled functions, described more fully in SUP 10A.8.1R and SUP 10A.8.1AR.</i>

**Part 2: Comes into force [ ] 20[ ]** [one year after main commencement date for solo-regulated firms]

*certification employee* ...

- (3) ~~(in relation to an SMCR firm that is an FCA authorised person) an employee (as defined in section 63E of the Act) of an SMCR firm who performs a certification function under an arrangement entered into by the SMCR firm in relation to the carrying on by the SMCR firm of a regulated activity, even though the obligation of the SMCR firm to issue a certificate under section 63F of the Act has not yet come into force.~~

~~[Note: Paragraph (3) of this definition applies until [ ] 2020 [one year after commencement for solo-regulated firms].]~~

## Annex B

**Amendments to the Senior Management Arrangements, Systems and Controls  
sourcebook (SYSC)**

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

**Part 1: Comes into force [ ] 20[ ]** [about three months before main commencement date for solo-regulated firms]

**TP 7 Bank of England and Financial Services Act 2016: Certification and regulatory references**

**7.1 Application and purpose**

...

7.1.2 R Table: Application of SYSC TP 7

Type of firm	Parts of SYSC TP 7 that apply
A <i>firm</i> in the <b>insurance sector</b> except one in the following row	All applies <u>except SYSC TP 7.7</u>
A <i>Solvency II firm</i> (including a <i>large non-directive insurer</i> )	All applies except as follows: ... (3) ... (4) <u>SYSC TP 7.7 does not apply.</u>
<u>A core SMCR firm, an enhanced scope SMCR firm and a limited scope SMCR firm</u>	<u>All applies</u>
All other <i>firms</i>	Only <del>SYSC TP 7.4.6R</del> , <del>SYSC TP 7.4.7G</del> , SYSC TP 7.6 <del>apply</del> <u>applies.</u>

7.1.3 G SYSC TP 7:

(1) explains how the certification regime described in SYSC 27 applies during the **certification transitional period periods** described in SYSC TP 7.2.1G;

...

(3) has certain other transitional provisions relating to the amendments made to the *FCA Handbook* by the Individual Accountability (Dual-Regulated Firms) Instrument 2018 and the Individual Accountability (FCA-Authorised Firms) Instrument 2018.

7.1.4 G (1) The main time period for which SYSC TP 7 operates is 2018 to ~~2019~~ 20[ ] [year after the main commencement date for solo-regulated firms].

...

...

7.1.6 R Table: glossary of bespoke terms used in SYSC TP 7

<b>Part Two: Dates</b>		
<b><u>(1)</u></b> <b>Defined term</b>	<b><u>(2)</u></b> <b>Meaning: <u>Insurers</u></b>	<b><u>(3)</u></b> <b>Meaning: <u>Others</u></b>
<b>certification transitional period</b>	...	<u>20[ ] to 20[ ] [the one year period following the main commencement date for solo-regulated firms]</u>
<b>general commencement date</b>	...	<u>20[ ] [the main commencement date for solo-regulated firms]</u>
<u>Note (1): Column (2) (Insurers) applies to a <i>firm</i> in the <b>insurance sector</b> (to the extent that SYSC TP 7 applies to such <i>firms</i>).</u>		
<u>Note (2): Column (3) (Others) applies to a <i>core SMCR firm</i>, an <i>enhanced scope SMCR firm</i> and a <i>limited scope SMCR firm</i>.</u>		

...

**7.4 Transitional provisions about regulatory references**

...

- 7.4.2 R SYSC 22.2.1R (Obligation to obtain a regulatory reference) does not apply to an application for approval as an *approved person* that:
- (1) is made before the **general commencement date** and is continued in force by *SUP* TP 11.7 or *SUP* TP 12.7 (In-flight applications: Conversion); or
  - (2) is made under *SUP* TP 11.15 or *SUP* TP 12.15 (Applications of approved persons to take effect from the commencement date).

...

7.6.2 G ...

## 7.7 Qualification conditions for FCA-authorized firms

### Firm classification: Effect of pre-commencement events

7.7.1 R If a *firm* is treated as a *core SMCR firm*, an *enhanced scope SMCR firm* or a *limited scope SMCR firm* before the **general commencement date** for the purposes of *SUP* TP 12 (Bank of England and Financial Services Act 2016: Approved persons in solo-regulated firms) it retains that status after the **general commencement date** unless and until it changes under SYSC 23 Annex 1 (Definition of SMCR firm and different types of SMCR firms).

7.7.2 G For example if before the **general commencement date** a *firm* has opted up to be an *enhanced scope SMCR firm* it remains an *enhanced scope SMCR firm* after the **general commencement date**. It may then elect to cease being an *enhanced scope SMCR firm* using a Form O under the procedure in SYSC 23 Annex 1 unless it also meets one of the other qualifications for being an *enhanced scope SMCR firm*.

### Financial qualification conditions for enhanced scope SMCR firms

7.7.3 G (1) *SYSC* 23 Annex 1 7.15R deals with cases in which the period in relation to which the financial calculations are made to test whether a *firm* meets one of the financial qualification conditions for being an *enhanced scope SMCR firm* is adjusted because the relevant reporting requirements did not apply for the whole period. *SYSC* 23 Annex 1 7.16G gives examples of why this may happen.

(2) Another reason why *SYSC* 23 Annex 1 7.15R may apply is that the relevant reporting requirements have not existed for the whole of the period. A particular example of this is consumer credit reporting requirements. At the time the financial qualification conditions for being an *enhanced scope SMCR firm* first came into force in 20[ ] [the year in which the main commencement date for solo-regulated firms falls], the relevant reporting requirements had not existed for a full three years.

- 7.7.4      **G**      A calculation period, an averaging period or a reporting period as referred to in Part Seven of SYSC 23 Annex 1 (Part Seven: Financial qualification condition for being an enhanced scope SMCR firm) may begin or end before the **general commencement date**.

**Part 2: Comes into force [ ] 20[ ] [main commencement date for solo-regulated firms]**

## **1            Application and purpose**

### **1.1A        Application**

...

- 1.1A.1A    **G**      The application of this sourcebook to specific *firms* that are not *PRA-  
authorised persons* is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

Type of firm	Applicable chapters
<i>Full-scope UK AIFM</i>	Chapters 4 to 10, 12, 18, 19B, 19F.2, 21, 22, <u>23, 24, 25, 26, 27, 28</u>
<i>BIPRU firm (including a third-country BIPRU firm)</i>	Chapters 4 to 10, 12, 18, 19C, 19F.2, 20, 21, 22, <u>23, 24, 25, 26, 27, 28</u>
<i>IFPRU investment firm (including an overseas firm that would have been an IFPRU investment firm if it had been a UK domestic firm)</i>	Chapters 4 to 10, 12, 18, 19A, 19F.2, 20, 21, 22, <u>23, 24, 25, 26, 27, 28</u>

**1 Annex Detailed application of SYSC  
1**

...

Part 2		Application of the common platform requirements	
...			
2.3	R	For a <i>sole trader</i> :	
	(1)	SYSC 4.3 <del>and 4.4 do</del> <u>does</u> not apply as long as <del>he does</del> <u>they do</u> not employ any <i>person</i> who is required to be approved under section 59 of the <i>Act</i> (Approval for particular arrangements);	
	(2)	...	
...			

Part 3		Tables summarising the application of the common platform requirements to different types of firm	
...			

**Table A: Application of the common platform requirements in SYSC 4 to SYSC 10**

Provision	COLUMN A	COLUMN A+	COLUMN A++	COLUMN B
SYSC 4	...	...	...	...
...	...	...	...	...
SYSC 4.4.1AR	...	...	...	<p><del>Rule applies this section only to:</del></p> <p>(1) an <i>authorised professional firm</i> in respect of its <i>non-mainstream regulated activities</i> unless the <i>firm</i> is also conducting other <i>regulated activities</i> and has appointed <del>approved persons</del> to perform the <i>governing functions</i> with equivalent responsibilities for the <i>firm's non-mainstream regulated</i></p>

			<p><i>activities and other regulated activities;</i></p> <p><i>(2) activities carried on by a firm whose principal purpose is to carry on activities other than regulated activities and which is:</i></p> <p><i>(a) an oil market participant;</i></p> <p><i>(b) a service company;</i></p> <p><i>(c) an energy market participant;</i></p> <p><i>(d) a wholly owned subsidiary of:</i></p> <p><i>(i) a local authority;</i></p> <p><i>(ii) a registered social landlord;</i></p> <p><i>(e) a firm with permission to carry on insurance distribution activity in relation to non-investment insurance contracts but no other regulated activity except advising on P2P agreements;</i></p> <p><i>(2A) a credit firm which holds a limited permission (other than a not for profit debt advice body) with respect to the relevant credit activity (as defined in paragraph 2G of Schedule 6 to the Act) for which it has limited permission;</i></p> <p><i>(3) an incoming Treaty firm, an incoming EEA firm and a UCITS qualifier, (but only SYSC 4.4.5R(2) applies for these firms); and</i></p> <p><i>(4) a sole trader, but only if he employs any person who is required to be approved under section 59 of the Act (Approval for particular arrangements).</i></p>
--	--	--	---

				As specified in SYSC 4.4.1AR.
...	...	...	...	...

...

## 4 General organisational requirements

...

### 4.4 Apportionment of responsibilities

Application

4.4.1A R (-2) This section applies to:

(a) a limited scope SMCR firm; and

(b) an authorised professional firm that is a core SMCR firm.

(-1) The application of this section is further limited by the rest of this rule.

(1) This section applies to an authorised professional firm as follows:

(a) it only applies in respect of *its non-mainstream regulated activities; and*

(b) unless it does not apply if the firm;

(i) is also conducting other *regulated activities*; and

(ii) has appointed *approved persons* to perform the *FCA governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*; .

~~(2) activities carried on by a firm whose principal purpose is to carry on activities other than regulated activities and which is:~~

~~(a) an oil market participant; or~~

~~(b) a service company; or~~

~~(c) an energy market participant; or~~

~~(d) a wholly owned subsidiary of:~~

~~(i) a local authority; or~~



- (ii) a registered social landlord; or
- (e) a firm with permission to carry on insurance distribution activity in relation to non-investment insurance contracts but no other regulated activity (except advising on P2P agreements); ~~[deleted]~~
- (3) a credit firm which holds only a limited permission (other than a not-for-profit debt advice body) with respect to the relevant credit activity (as defined in paragraph 2G of Schedule 6 to the Act) for which it has limited permission; ~~[deleted]~~
- (4) Only SYSC 4.4.5R(2) applies to an incoming Treaty firm, or an incoming EEA firm, or a UCITS qualifier (but only SYSC 4.4.5R(2) applies for these firms); and
- (5) This section only applies to a sole trader, but only if they:
  - (a) ~~he employs~~ have any person who is required to be approved under section 59 of the Act (Approval for particular arrangements); or
  - (b) are an authorised approved person employer; or
  - (c) have any certification employees.

...

4.4.6 G Frequently asked questions about allocation of functions in SYSC 4.4.5R

Question		Answer
1	Does an individual to whom a function is allocated under SYSC 4.4.5R need to be an approved person or a certification employee?	<p><del>An individual to whom a function is allocated under SYSC 4.4.5R</del> <u>Yes. They will be performing the <i>apportionment and oversight limited scope function</i> (CF 8, see SUP 10A.7.1R) and an application must be made under section 59 of the Act for approval of the individual before the function is performed. There are exceptions from this in SUP 10A.1 (Approved persons – Application). However, the <i>limited scope function</i> does not apply to an <i>EEA SMCR firm</i> or an <i>authorised professional firm</i> that is a <i>core SMCR firm</i>.</u></p> <p><del>The <i>apportionment and oversight function</i> does not apply to a relevant authorised person. However, a person performing the role in SYSC 4.4.5R will</del></p>

		fall into the certification regime in SYSC 5.2 (Certification Regime), unless the person performing it is an <i>approved person</i> . A person performing the role in SYSC 4.4.5R may be an <i>approved person</i> because of another role that they perform (such as being an <i>executive director</i> ).
...	...	...
3	What is meant by “appropriately allocate” in this context?	The allocation of functions should be compatible with delivering compliance with <i>Principle 3</i> , SYSC 4.4.3R and SYSC 4.1.1R. The <del>appropriate regulator</del> <u>FCA</u> considers that allocation to one or two individuals is likely to be appropriate for most <i>firms</i> .
...	...	...
7	If a <i>firm</i> has an individual as <i>chief executive</i> , must the functions be allocated to that individual?	... If the <i>firm</i> chooses to allocate the functions to a <i>director</i> or <i>senior manager</i> responsible for the overall management of a relevant <i>group</i> division, the <del>FSA</del> <u>FCA</u> would expect that individual to be of a seniority equivalent to or greater than a <i>chief executive</i> of the <i>firm</i> for the allocation to be appropriate. See also Question 14.
...	...	...
11	How does the requirement to allocate the functions in SYSC 4.4.5R apply to an <i>overseas firm</i> which is not an <i>incoming EEA firm</i> , <i>incoming Treaty firm</i> or <i>UCITS qualifier</i> ?	The <i>firm</i> must appropriately allocate those functions to one or more individuals, in accordance with SYSC 4.4.5R, but: ... <del>The apportionment and oversight function applies to such a firm, unless it falls within a particular exception from the approved persons regime (see Question 1).</del>
12	How does the requirement to allocate the functions in SYSC 4.4.5R apply to an	SYSC 1 Annex 1.1.1R(2) and SYSC 1 Annex 1.1.8R restrict the application of SYSC 4.4.5R for such a <i>firm</i> . Accordingly:

	<i>incoming EEA firm or incoming Treaty firm?</i>	<p>...</p> <p>(2) Such a <i>firm</i> is required to allocate the function of oversight in SYSC 4.4.5R(2). However, the systems and controls that must be overseen are those relating to matters which the <del>appropriate regulator</del> <b>FCA</b>, as <i>Host State regulator</i>, is entitled to regulate (there is <i>guidance</i> on this in SUP 13A Annex 2). Those are primarily, but not exclusively, the systems and controls relating to the conduct of the <i>firm's</i> activities carried on from its <i>UK branch</i>.</p> <p>...</p>
13	What about a <i>firm</i> that is a <i>partnership</i> or a <i>limited liability partnership</i> ?	<p>The <del>appropriate regulator</del> <b>FCA</b> envisages that most if not all <i>partners</i> or <i>senior managers</i>, but this will depend on the constitution of the <i>partnership</i> (particularly in the case of a <i>limited partnership</i>) or <i>limited liability partnership</i>. A <i>partnership</i> or <i>limited liability partnership</i> may also have a <i>chief executive</i> (see Question 5). A <i>limited liability partnership</i> is a <i>body corporate</i> and, if a member of a <i>group</i>, will fall within SYSC 4.4.5R, row (1) or (2).</p>
...	...	...

**6 Compliance, internal audit and financial crime**

...

**6.2 Internal audit**

...

**6.2.2 G ...**

- (2) ~~For a *firm* that is not an *SMCR firm*, the internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28). [deleted]~~

- (3) For an *SMCR firm that is a PRA-authorised person*, the internal audit function is a *PRA controlled function (SMF5)*. For an *enhanced scope SMCR firm* it is an *FCA controlled function (SMF5)*.

...

## 7 Risk control

### 7.1 Risk control

...

#### 7.1.8 G ...

- (3) ~~For a *firm that is not an SMCR firm*, the risk management function is not a *controlled function* itself, but is part of the *systems and controls function (CF28)*. [deleted]~~
- (4) For an *SMCR firm that is a PRA authorised person*, the risk management function is a *PRA controlled function (SMF4)*. For an *enhanced scope SMCR firm* it is an *FCA controlled function*.

...

## 21 Risk control: additional guidance

### 21.1 Risk control: guidance on governance arrangements

...

Chief Risk Officer

#### 21.1.2 G ...

- (2) ~~Firms~~ will need to seek the ~~appropriate regulator's~~ FCA's or PRA's (as appropriate) approval for a Chief Risk Officer to perform:
- (a) (for an *SMCR firm that is a PRA-authorised person*) the *PRA's Chief Risk Function controlled function*; or
- (b) (for ~~any other firm~~ an *enhanced scope SMCR firm*) the ~~systems and controls function (see SUP 10A (FCA approved persons))~~ *chief risk officer function*.

...

## 22 Regulatory references

### 22.1 Application

General application

22.1.1 R This chapter applies to all SMCR firms (~~subject to SYSC 22.1.5R~~).

22.1.1A G (1) Despite SYSC 22.1.1R, this chapter distinguishes between SMCR firms and other firms to which this chapter applies. The reason for this is SYSC 22.8.4R, which imposes some requirements on SMCR firms in relation to appointed representatives but fewer than it applies to SMCR firms themselves.

(2) Therefore when this chapter refers to a person to which the requirements of this chapter apply as an employer (current, past or future) but who is not an SMCR firm, it is referring to an appointed representative. However it refers to an appointed representative on the basis that the requirements of this chapter only apply to it indirectly, through the SMCR firm that is its principal.

...

#### Territorial scope and overseas firms

22.1.3 R There is no territorial limitation on the application of this chapter, subject to ~~SYSC 22.1.5R and SYSC 22.1.6R~~.

...

22.1.5 R ~~This chapter does not apply to: [deleted]~~

(1) ~~an overseas firm that does not have an establishment in the United Kingdom; or~~

(2) ~~a UCITS qualifier (see section 266 of the Act (Disapplication of rules));~~

(3) ~~an AIFM qualifier; or~~

(4) ~~incoming EEA firm that is an EEA pure reinsurer.~~

...

## 22.2 Getting, giving and updating references: the main rules

### Obligation to obtain references (applicable to SMCR firms)

22.2.1 R (1) If an *SMCR firm* (A) is considering:

(a) permitting or appointing someone (P) to perform a *controlled function*; ~~or~~

(b) issuing a certificate under the certification regime for P; or

(ba) appointing a board director;

...

...

## 22.2.3 R Table: What positions need a reference

Position	When to obtain reference	Comments
...		
(C) ...	...	...
<u>(D) Appointing someone to be a non-SMF board director subject to competence requirements.</u>	<u>Before appointment</u>	<u>Only applies to a UK SMCR firm that is:</u> <u>(a) a core SMCR firm; or</u> <u>(b) an enhanced scope SMCR firm.</u>
...		

...

## 22.2.7 R ...

Sole traders

22.2.8 R The obligation in SYSC 22.2.1R (Obligation to obtain references (SMCR firms only)) does not apply if A and P (as referred to in that rule) are the same person.

22.2.9 G An example of SYSC 22.2.8R is this. Say that P works at a firm (B) and leaves to become a firm and a sole trader. P appoints themselves to perform the compliance oversight function. P does not need to get a regulatory reference from B about themselves.

22.2.10 G (1) If a firm is appointing someone who was a sole trader to a position that would normally require a regulatory reference under SYSC 22.2.1R, it does not have to request a reference from the sole trader themselves. That is because SYSC 22.2.1R only requires a firm to request a reference from a previous employer and a sole trader is not their own employer.

(2) An example of (1) is this. Say that P was a firm and a sole trader and performed the compliance oversight function themselves. P goes to work for another firm (A). A does not need to request a regulatory reference from P about P.

...

## 22.5 Giving references: additional rules and guidance for all firms

...

... Criminal record checks

22.5.19 G A *firm* giving a reference need not include information from a criminal records check it has carried out under Part V of the Police Act 1997 (Certificates of Criminal Records, &c). The recruiting *firm* should carry out a criminal records check itself if necessary. The main FCA Handbook requirements on a recruiting *firm* to carry out a criminal records check are:

(1) SUP 10C.10.16R requires (an SMCR firm to should carry out such a check when appointing an SMF manager); and

(2) SYSC 23.4 (Criminal record checks for certain directors).

...

## 22.8 Additional rules and guidance for all firms

...

Appointed representatives

...

22.8.4A R (1) The *approved person's authorised approved person employer* is responsible for compliance with SYSC 22.8.3R in the case of a requirement to give a reference about an *approved person* whose approval is under ~~SUP 10A.1.15R to SUP 10A.1.16BR (Appointed representatives)~~ SUP 10A (FCA Approved Persons in Appointed Representatives).

...

22.8.5 G One effect of SYSC 22.8.3R is that when an *appointed representative* appoints an *approved person* under ~~SUP 10A.1.16BR (appointed representatives of an SMCR firm)~~ SUP 10A there is no requirement for the *appointed representative* or its *principal* to request a reference.

22.8.5A G This chapter does not apply in relation to an *appointed representative* of a *firm* that is not an SMCR firm.

...

22 Annex 1R **Template for regulatory references given by SMCR firms and disclosure requirements**

...

[*Editor’s note:* The underlining in the heading of each question in the remaining portion of Part One of SYSC 22 Annex 1R is in the existing Handbook text and does not indicate new text.]

Question B:

Has the individual performed one or more of the following roles in relation to our firm:

- (1) notified non-executive director;
- (2) credit union non-executive director; ~~or~~
- (3) key function holder (other than a controlled function); or
- (4) board director.

...

Section One: Meaning of certain terms and phrases	
Defined term or phrase	Meaning
...	
Certification function, approved person, controlled function and PRA controlled function	...
<u>Board director</u>	<u>Non-SMF board director subject to competence requirements, as defined in the Glossary.</u>
...	

...

**22 Annex 2 Factors to take into account when asking for and giving regulatory references**

Matters to take into account	Comments
...	
(C) Section 5 of the relevant Form A in <i>SUP</i> 10A Annex 4 ( <del>Application to perform controlled functions under approved persons</del> )	



regime) or SUP 10C Annex 3 (Application to perform senior management functions)	
...	

...

## 23 Senior managers and certification regime: Introduction and classification

### 23.1 Purpose

23.1.1 G The purpose of this chapter is to:

- (1) explain what the senior managers and certification regime is and where to find the main *Handbook* provisions;
- (2) define which *firms* the regime applies to; ~~and~~
- (3) define the different kinds of *SMCR firm*; and
- (4) require certain *firms* to carry out criminal record checks before appointing certain *board directors*.

### 23.2 Definitions and types of firms

23.2.1 R ...

23.2.2 G Broadly speaking, *firms* covered by the senior managers and certification regime that are dual-regulated by the *FCA* and the *PRA* are divided into two categories:

- (1) Banks and deposit-takers. They are called *SMCR banking firms*.
- (2) Insurers.

23.2.3 G Broadly speaking, *firms* covered by the senior managers and certification regime that are regulated by the *FCA* are divided into three categories:

- (1) *Firms* regulated by the *FCA* that do not fall into (2) or (3). They are called *core SMCR firms*. A large number of *firms* will be in this category.
- (2) Certain large *firms*. These are called *enhanced scope SMCR firms*. Relatively few *firms* fall into this category.
- (3) *Firms* whose business is limited to certain types. These are called *limited scope SMCR firms*. A large number of *firms* will be in this category. The main examples are:

- (a) limited permission consumer credit firms;
- (b) an authorised professional firm whose only regulated activities are non-mainstream regulated activities;
- (c) internally managed AIFs; and
- (d) firms whose main business is not regulated and whose regulated business is (with limited exceptions) restricted to insurance distribution activity in relation to non-investment insurance contracts.

### 23.3 Overview of the senior managers and certification regime

...

- 23.3.2 G The table in SYSC 23.3.3G gives more details about each of those three elements. The first two columns of the table apply to all firms. The third column only covers firms that are not regulated by the PRA.
- 23.3.3 G Table: Summary of the senior managers and certification regime

<u>(1)</u> Description of component of the regime	<u>(2)</u> Handbook provisions	<u>(3)</u> <u>Application to solo-regulated firms</u>
The senior managers regime: Parts that apply to all firms		
Pre-approval by the <i>FCA</i> of senior management (the <i>FCA Handbook</i> calls senior management subject to pre-approval <i>SMF managers</i> )	<i>SUP</i> 10C	<u>Applies to all solo-regulated firms</u>
<i>Firm</i> to be satisfied that a <i>person</i> is fit and proper before applying for them to be approved as an <i>SMF manager</i> by the <i>FCA</i> or <i>PRA</i>	This requirement comes from section 60A of the <i>Act</i> . There is <i>guidance</i> on it in <i>SUP</i> 10C.10.14G (Vetting of candidates by the firm)	<u>Applies to all solo-regulated firms</u>

<p>Annual assessment of fitness and propriety by the <i>SMF managers' firms</i></p>	<p>This requirement comes from section 63(2A) of the <i>Act</i>. There are related notification obligations in <i>SUP</i> 10C.14.18R to <i>SUP</i> 10C.14.25G (Notifications about fitness, disciplinary action and breaches of COCON).</p>	<p><u>Applies to all solo-regulated firms</u></p>
<p>A <i>firm</i> should carry out criminal records checks before applying for someone to be approved as an <i>SMF manager</i></p>	<p><i>SUP</i> 10C.10.16R (Criminal records checks and verifying fitness and propriety)</p>	<p><u>Applies to all solo-regulated firms except for a sole trader without employees</u></p>
<p>A <i>firm</i> should ask for a regulatory reference before appointing someone to be an <i>SMF manager</i>, or to certain other senior management positions, and give one if asked to by another <i>firm</i> doing so</p>	<p><i>SYSC</i> 22 (Regulatory references)</p>	<p><u>Obligation to give a reference applies to all solo-regulated firms.</u></p> <p><u>Obligation to ask for one applies to all solo-regulated firms except for a sole trader without employees.</u></p>
<p><i>Statements of responsibilities</i></p> <p>This is a document that sets out the responsibilities that an <i>SMF manager</i> performs as part of their <i>designated senior management function</i>. It is prepared as part of the <i>firm's</i> application to the <i>FCA</i> or (if the <i>firm</i> is a <i>PRA-authorized person</i>) <i>PRA</i> for</p>	<p><i>SUP</i> 10C.11 (Statements of responsibilities).</p> <p>Many of the requirements are in the <i>Act</i> itself but they</p>	<p><u>Applies to all solo-regulated firms</u></p>

<p>them to be approved as an <i>SMF manager</i>. It should be updated after approval when there has been any significant change in the responsibilities of the <i>SMF manager</i></p>	<p>are summarised in <i>SUP 10C.11</i>. <i>SUP 10C.11</i> also adds some further requirements, particularly about there being one <i>statement of responsibilities</i> per <i>SMF manager</i> per <i>firm</i>.</p>	
<p>The senior managers regime: Parts that apply to many firms</p>		
<p>A <i>firm</i> should allocate certain specified management responsibilities among its <i>SMF managers</i></p> <p>The <i>FCA Handbook</i> calls them <i>FCA-prescribed senior management responsibilities</i></p>	<p><i>SYSC 24</i> (Senior managers and certification regime: Allocation of prescribed responsibilities)</p>	<p><u>Does not apply to a limited scope SMCR firm.</u></p> <p><u>Applies to a core SMCR firm and an enhanced scope SMCR firm.</u></p>
<p><u>A firm solo-regulated by the FCA should carry out criminal records checks before appointing a board director who is not an SMF manager</u></p>	<p><u><i>SYSC 23.4</i> (Criminal record checks for non-executive directors)</u></p>	<p><u>Does not apply to a limited scope SMCR firm.</u></p> <p><u>Applies to a core SMCR firm and an enhanced scope SMCR firm.</u></p>
<p><u>The senior managers regime: Parts that only apply to a limited range of firms</u></p>		
<p>A <i>firm</i> should maintain a comprehensive and up-to-date <i>document</i> (called the <i>management responsibilities map</i>) that describes its management and governance arrangements</p>	<p><i>SYSC 25</i> (Senior managers and certification regime: Management responsibilities maps and handover procedures and material)</p>	<p><u>Does not apply to a limited scope SMCR firm or a core SMCR firm.</u></p> <p><u>Applies to an enhanced scope SMCR firm.</u></p>

<p>A <i>firm</i> should ensure that, at all times, one or more of its <i>SMF managers</i> have overall responsibility for each of the activities, business areas and functions of the <i>firm</i></p>	<p>SYSC 26 (Senior managers and certification regime: Overall and local responsibility)</p>	<p><u>Does not apply to a limited scope SMCR firm or a core SMCR firm.</u></p> <p><u>Applies to an enhanced scope SMCR firm.</u></p>
<p>A <i>firm</i> should ensure that a person becoming an <i>SMF manager</i> has all the information and material that they could reasonably expect to have to perform their responsibilities</p>	<p>SYSC 25.9 (Handover procedures and material)</p>	<p><u>Does not apply to a limited scope SMCR firm or a core SMCR firm.</u></p> <p><u>Applies to an enhanced scope SMCR firm.</u></p>
<p>The senior managers regime: Parts outside the Handbook</p>		
<p>Criminal offence relating to a decision that causes a financial institution to fail.</p> <p>It applies to a <i>UK SMCR banking firm</i> but does not apply to a <i>credit union</i>.</p> <p>It does not apply to any <i>firm</i> that is not a <i>UK SMCR banking firm</i>.</p>	<p>This is contained in section 36 of the Financial Services (Banking Reform) Act 2013</p>	<p><u>Does not apply to any solo-regulated firm</u></p>
<p>The certification regime</p>		
<p>A <i>firm</i> should not permit an <i>employee</i> to carry out certain functions (<i>certification functions</i>) unless it has issued them with a certificate.</p> <p>The certificate is only valid for a year. The <i>firm</i> will have to renew it if the <i>employee</i> is to carry on performing the function.</p> <p>A <i>firm</i> may not issue or renew a certificate unless it is satisfied that the <i>person</i> is fit and proper.</p> <p>Certification does not involve pre-approval by the <i>FCA</i> or <i>PRA</i>.</p>	<p>Most of the requirements of this regime are in sections 63E (Certification of employees by authorised persons) and 63F (Issuing of certificates) of the <i>Act</i>.</p> <p>SYSC 27 (Senior managers and certification regime: Certification regime) describes the</p>	<p><u>Applies to all solo-regulated firms except for internally managed AIFs and certain firms that only carry out benchmark activities.</u></p>

	regime and explains which <i>employees</i> are covered.	
A <i>firm</i> should ask for a regulatory reference before appointing someone to perform an <i>FCA certification function</i> (or a <i>PRA</i> equivalent) and give one if asked to by another <i>firm</i> doing so	<i>SYSC 22</i> (Regulatory references)	<u>Applies to all solo-regulated firms</u>
Conduct rules (applies to all firms)		
<i>Rules</i> of conduct that apply directly to a <i>firm's</i> workforce other than ancillary staff	<i>COCON</i>	<u>Applies to all solo-regulated firms</u>
A <i>firm</i> should report breaches of <i>COCON</i> to the <i>FCA</i>	<i>SUP 15.11</i> (Notification of <i>COCON</i> breaches and disciplinary action)	<u>Applies to all solo-regulated firms</u>
A <i>firm</i> should: (a) ensure that all <i>persons</i> subject to <i>COCON</i> are notified of the <i>rules</i> that apply to them; and (b) take all reasonable steps to ensure that they understand how <i>COCON</i> applies to them	These obligations are in section 64B of the Act (Rules of conduct: responsibilities of authorised persons).  There is <i>guidance</i> in <i>COCON 2.3</i> (Firms: Training and breaches).	<u>Applies to all solo-regulated firms</u>

23.3.4 G ...

## **23.4 Criminal record checks for certain directors**

23.4.1 R This section applies to a UK SMCR firm that is:

- (1) an enhanced scope SMCR firm; or

(2) a core SMCR firm.

23.4.2 R A firm must (as part of its assessment of the fitness and propriety of any of its non-SMF board directors subject to competence requirements (P)) obtain the fullest information that it is lawfully able to obtain about P under Part V of the Police Act 1997 (Certificates of Criminal Records, &c) and related subordinated legislation of the UK or any part of the UK before P’s appointment as a board director.

23.4.3 G The guidance in SUP 10C.10.17G, SUP 10C.10.18G and SUP 10C.10.21G about criminal record checks for candidates to be an SMF manager applies to criminal record checks under this section.

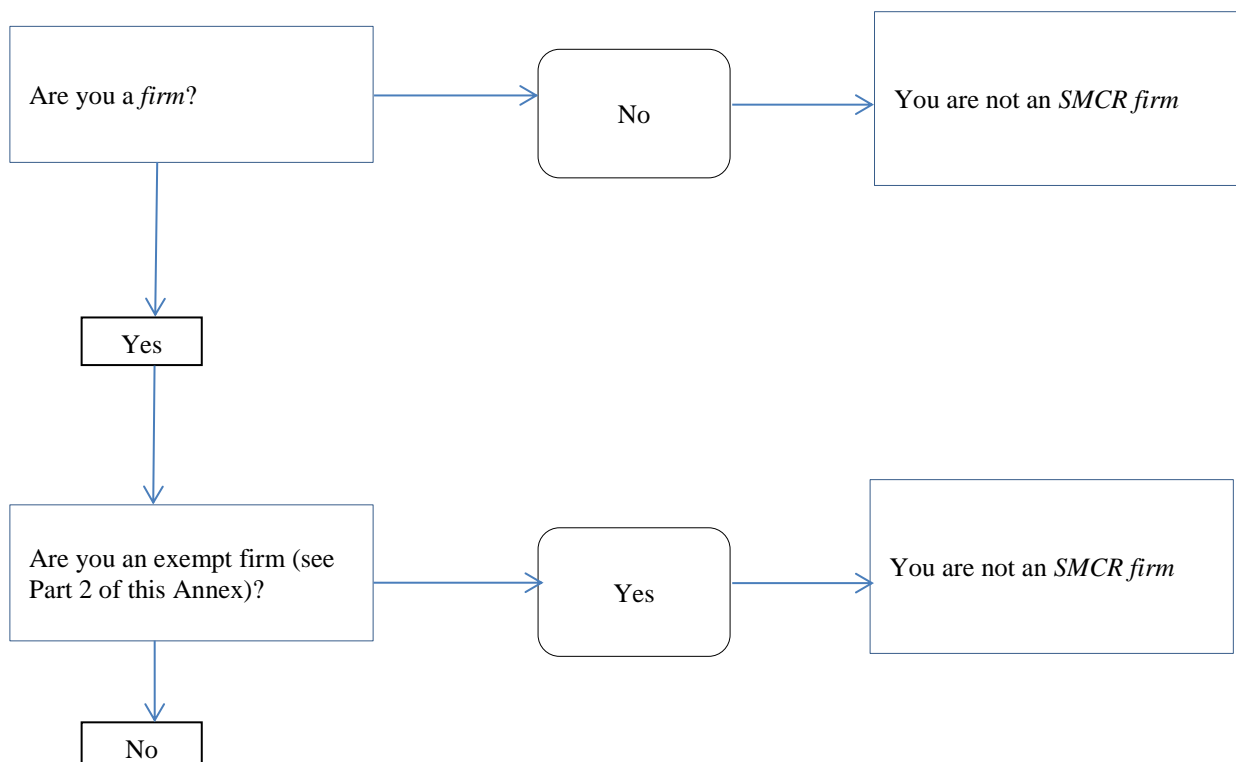
**23 Annex 1 Definition of SMCR firm and different types of SMCR firms**

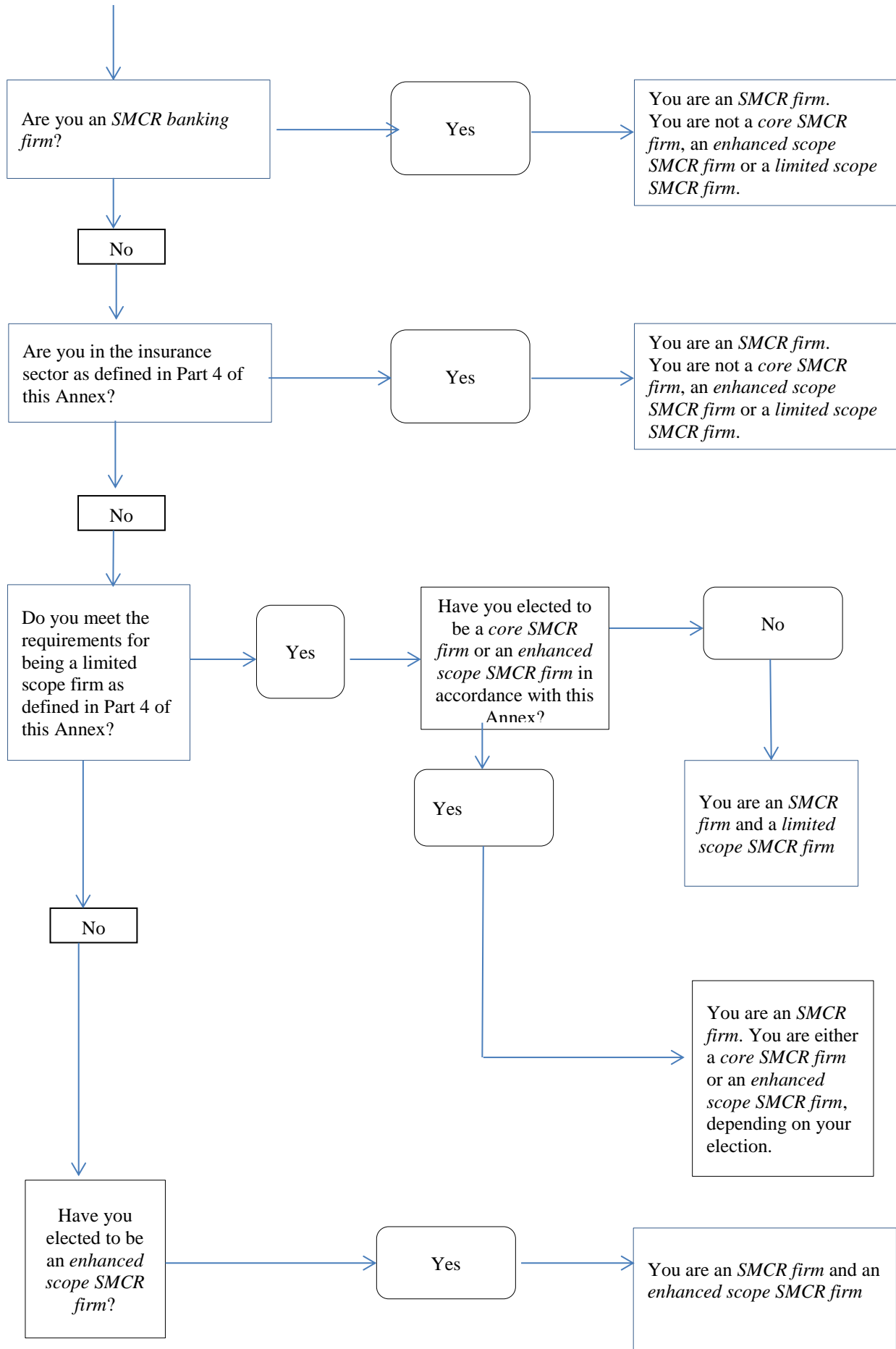
Part One: Flow diagram and other basic provisions

1.1 R ...

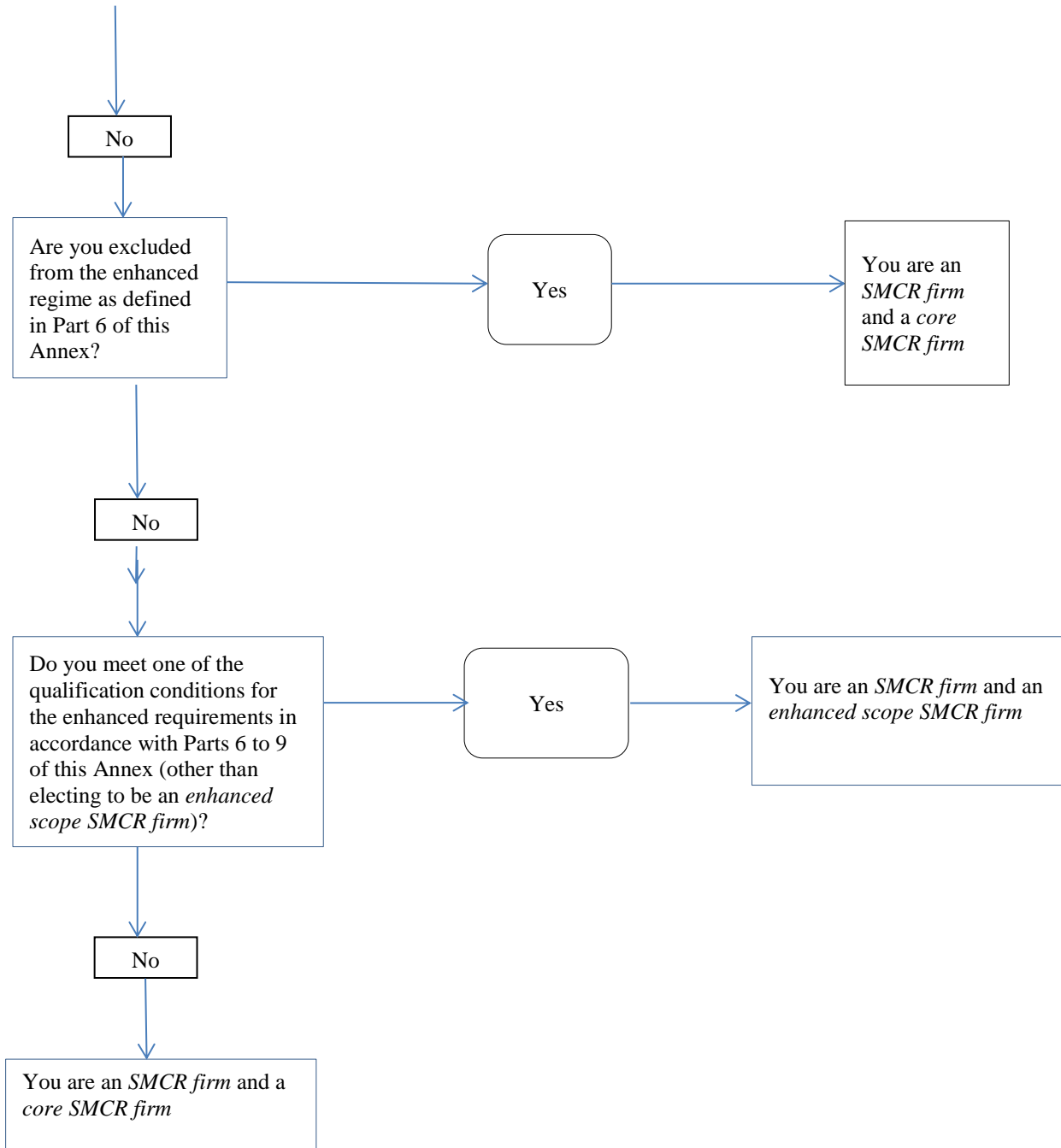
1.2 R Flow diagram: Types of SMCR firm

Delete the flow diagram in SYSC 23 Annex 1 1.2R and replace it with the following. The deleted text is not shown.









Note: The categorisation in this flow diagram is subject to SYSC 23 Annex 1 2.1R. This note forms part of the flow diagram.

...

Amend the following as shown.

Part Two: Changing category

- 2.1 R If a *firm* is subject to a *requirement* that it must comply with the *rules* in the *FCA Handbook* applicable to one of the categories of *SMCR firm* set

out in this Annex, it is to be treated as falling into that category of *SMCR firm* for all purposes.

- 2.2            G    (1)    The FCA may, on a case-by-case basis, require a *limited scope SMCR firm* or a *core SMCR firm* to comply with the requirements that apply to an *enhanced scope SMCR firm* if the FCA considers it appropriate to do so to advance one or more of its operational objectives under the Act.
- (2)    The most common example of a *requirement* described in SYSC 23 Annex 1 2.1R is likely to be one of the kind described in (1).
- (3)    One effect of SYSC 23 Annex 1 2.1R is that if a *firm* is moved from the *limited scope SMCR firm* or *core SMCR firm* category to the *enhanced scope SMCR firm* category, the *FCA-designated senior management functions* that will apply to it are the ones for *enhanced scope SMCR firms*.
- 2.3            (1)    In practice it is unlikely that the procedure described in SYSC 23 Annex 1 2.1R will be used to move a *firm* from a category applicable to *PRA-authorised persons* to one applicable to *FCA-authorised persons* or vice versa.
- (2)    This is because the FCA's regime for *PRA-authorised persons* is designed on the basis that the *PRA's* regime also applies to those *firms* while the regime for *FCA-authorised persons* is designed on the basis that no *PRA* requirements apply.
- 2.4            G    (1)    Where a *firm* becomes or stops being an *enhanced scope SMCR firm* under the procedure described in SYSC 23 Annex 1 2.1R, the material in Parts 9 and 10 of this Annex about when the change of status becomes effective will not apply. Instead the timing will be dealt with in the variation of *permission*.
- (2)    If the variation does not specify the timing of the change, the change is likely to take effect when the variation does.
- 2.5            R    (1)    This *rule* deals with a notification under:
- (a)    SYSC 23 Annex 1 5.11R (opting to become a *core SMCR firm*);
- (b)    SYSC 23 Annex 1 5.12R (opting to stop being a *core SMCR firm*);
- (c)    SYSC 23 Annex 1 8.1R(3) (opting to become an *enhanced scope SMCR firm*); and
- (d)    SYSC 23 Annex 1 10.4R (opting to stop being an *enhanced scope SMCR firm*).

- (2) The notification takes effect in accordance with the applicable Part of this Annex. The notice may not specify when it is to take effect.
- (3) The notification must be made in accordance with SUP 10C.15.11R (Method of submission: electronic submission).
- (4) A firm must use the version of the form made available for this purpose on the electronic system referred to in SUP 10C.15.11R, which is based on the version found in SYSC 23 Annex 2R (Form O).
- (5) If SUP 10C.15.11R requires the notification to be in accordance with SUP 10C.15.14R (Method of submission: other forms of submission), the firm must use the version of the form found in SYSC 23 Annex 2R.
- (6) A firm may, by notice to the FCA, withdraw a notice in (1) at any time before the firm becomes or, as the case may be, ceases to be, an enhanced scope SMCR firm or, as the case may be, a core SMCR firm.
- 2.6      R      (1) The following may also give a notice described in SYSC 23 Annex 1 2.5R(1)(a) or SYSC 23 Annex 1 2.5R(1)(c):
- (a) an applicant for Part 4A permission; and
- (b) other persons seeking to carry on regulated activities as an SMCR firm.
- (2) The notice becomes effective when it becomes an SMCR firm.
- (3) SYSC 23 Annex 1 2.5R(3) to (6) apply to a notice in (1).
- 2.7      D      If a person in SYSC 23 Annex 1 2.6R(1) wishes to rely on SYSC 23 Annex 1 2.6R, it must make, or, as the case may be, amend its application so as to meet the relevant requirements of this Annex about the notices described in SYSC 23 Annex 1 2.6R(1).
- 2.8      G      (1) This paragraph relates to the withdrawal of a notice in SYSC 23 Annex 1 2.5R(1) as described in SYSC 23 Annex 1 2.5R(6).
- (2) If a firm decides to give a withdrawal notice, it should send it to the FCA as soon as possible.
- (3) A firm should give a withdrawal notice in accordance with SUP 15.7 (Form and method of notification). There is no specified form for the notice.
- 2.9      G      (1) This paragraph relates to SYSC 23 Annex 1 2.6R.
- (2) This Annex restricts who can elect to opt up to a higher category of SMCR firm. In a case covered by this paragraph, this restriction

relates to the category of *SMCR firm* of which the *person* would be a member when it becomes an *SMCR firm* if it had not made the election.

(3) (2) also applies to the requirements about how to notify the *FCA*.

2.10

G (1) A *firm* may elect to opt up to a higher category of *SMCR firm* (see *SYSC 23 Annex 1 2.5R(1)(a)* and (c)) and then later meet one of the other qualification conditions for that higher category.

(2) The table in *SYSC 23 Annex 1 2.11G* gives examples of various scenarios that can follow on from that.

2.11

G Table: Examples involving a firm that opts up a category (this table belongs to *SYSC 23 Annex 1 2.10G*)

<u>Scenario</u>	<u>Treatment under this Annex</u>
<u>(1) A <i>firm</i> elects to opt up to a higher category. It later meets one of the other qualification conditions for that higher category. It ceases to meet that second qualification condition some time later.</u>	<u>The <i>firm</i> remains in the higher category because its election remains in force.</u>
<u>(2) A <i>firm</i> elects to opt up to a higher category. It later meets one of the other qualification conditions for that higher category. It later cancels its election.</u>	<u>The <i>firm</i> remains within that higher category despite cancelling its election because it still meets that second qualification condition.</u>
<u>(3) A <i>firm</i> elects to opt up to a higher category. It later cancels its election. During the one year period in Part Five or Part Ten of this Annex following its cancellation notice it meets one of the other qualification conditions for that higher category.</u>	<u>The <i>firm</i> remains within that higher category despite the cancellation notice.</u>
<u>(4) A <i>firm</i> elects to opt up to a higher category. It later meets one of the other qualification conditions for that higher category. It later cancels its election. Some time after that, it ceases to meet the second qualification condition.</u>	<u>The cancellation notice has no immediate effect (see Example (2)). However when it ceases to meet the second qualification condition it ceases to be in the higher category. In contrast to Example (1), its election is no longer in force when ceases to meet the second qualification condition.</u>

Note: When this table refers to the cancellation of an election it refers to cancelling that election under this Annex after it has taken effect and not to withdrawing it before it takes effect.

Part Three: Definition of exempt firm

...

3.3 R ...

3.4 R A UCITS qualifier is an exempt firm (see section 266 of the Act (Disapplication of rules)).

3.5 R An AIFM qualifier is an exempt firm.

Insert the following new Parts in SYSC 23 Annex 1 where indicated. The text is not underlined.

Part Four: Definition of insurance sector

...

4.2 R ...

Part Five: Definition of limited scope SMCR firm

5.1 R (1) This Part sets out the requirements for being a *limited scope SMCR firm* referred to in the flow diagram in Part One of this Annex.

(2) Where this Part says that a *firm* is a *limited scope SMCR firm*, that means that the *firm* meets those requirements.

(3) This Part also sets out a procedure for a *firm* that would otherwise have been a *limited scope SMCR firm* to elect to be a *core SMCR firm* and to reverse that election.

5.2 G A *firm* that would otherwise have been a *limited scope SMCR firm* may elect to be an *enhanced scope SMCR firm* and may reverse that election. Parts Eight and Ten of this Annex deal with this.

5.3 R A *firm* listed in the table in SYSC 23 Annex 1 5.4R is a *limited scope SMCR firm* if:

- (1) its principal purpose is to carry on activities other than *regulated activities*; and
- (2) it is not a *MiFID investment firm*.

5.4 R Table: List of limited scope SMCR firms referred to in SYSC 23 Annex 1 5.3R

(1)	<i>Oil market participant</i>
(2)	<i>Service company</i>
(3)	<i>Energy market participant</i>
(4)	A wholly owned <i>subsidiary</i> of: <ul style="list-style-type: none"> <li>(a) a <i>local authority</i>; or</li> <li>(b) a registered social landlord.</li> </ul>
(5)	A <i>firm</i> that meets the following conditions: <ul style="list-style-type: none"> <li>(a) it has <i>permission</i> to carry on <i>insurance distribution activity</i> in relation to <i>non-investment insurance contracts</i>; and</li> <li>(b) it either: <ul style="list-style-type: none"> <li>(i) does not have <i>permission</i> to carry on any other <i>regulated activity</i>; or</li> <li>(ii) has <i>permission</i> to carry on no other <i>regulated activity</i> except <i>advising on P2P agreements</i>.</li> </ul> </li> </ul>

5.5 G It will be a matter of fact in each case whether, having regard to all the circumstances, including in particular where the balance of the business lies, a *firm's* principal purpose is to carry on activities other than *regulated activities*. If a *firm* wishes to rely on SYSC 23 Annex 1 5.3R, it should be in a position to demonstrate that its principal purpose is to carry on activities other than *regulated activities*.

5.6 R A *sole trader* is a *limited scope SMCR firm*.

5.7 R A *firm* whose *permission* is limited to the carrying on of a relevant credit activity (as defined in paragraph 2G of Schedule 6 to the *Act*) (a *limited permission*) is a *limited scope SMCR firm*.

5.8 R A *not-for-profit debt advice body* is a *limited scope SMCR firm*.

- 5.9 R An *authorised professional firm* whose only *regulated activities* are *non-mainstream regulated activities* is a *limited scope SMCR firm*.
- 5.10 R A *firm* is a *limited scope SMCR firm* if it meets the following conditions:
- (1) it is an *internally managed AIF*;
  - (2) it is a *body corporate*; and
  - (3) it is not a *collective investment scheme*.
- 5.11 R (1) A *limited scope SMCR firm* may notify the *FCA* in accordance with this Part that it intends to become a *core SMCR firm*.
- (2) A *firm* that gives notice under (1) must comply with the requirements for *core SMCR firms* (and becomes a *core SMCR firm*) from three *months* after the *FCA* receives the notice in (1).
- (3) SYSC 23 Annex 1 2.5R applies to a notice in (1).
- 5.12 R (1) This *rule* deals with a *firm* that has elected to become a *core SMCR firm* under SYSC 23 Annex 1 5.11R.
- (2) The *firm* may notify the *FCA* that it intends to cancel its election to be a *core SMCR firm* under SYSC 23 Annex 1 5.11R.
- (3) The notification takes effect one *year* after the *FCA* receives the notice.
- (4) SYSC 23 Annex 1 2.5R applies to notifications under this *rule*.

#### Part Six: Exclusion from enhanced regime

- 6.1 R This Part sets out which *firms* are excluded from the enhanced regime for the purposes of the flow diagram in Part One of this Annex.
- 6.2 R An *overseas SMCR firm* is excluded from the enhanced regime.
- 6.3 R A *firm* is excluded from the enhanced regime if its *permission* only covers being the *full-scope UK AIFM* of:
- (1) an *unauthorised AIF*; or
  - (2) an *authorised AIF* only marketed to investors that are *professional clients*.
- 6.4 R A *firm* is excluded from the enhanced regime if:
- (1) it is exempt from *MiFID* under article 2(1)(j); and
  - (2) its only *permission* is *bidding in emissions auctions*.

Part Seven: Financial qualification condition for being an enhanced scope SMCR firm

- 7.1 R A *firm* meets a qualification condition for the purposes of identifying an *enhanced scope SMCR firm* under the flow diagram in Part One of this Annex if it meets one of the criteria set out in column (1) of the table in SYSC 23 Annex 1 7.2R.
- 7.2 R Table: Financial qualification conditions

(1) Qualification condition	(2) Reporting requirement	(3) Comments
<b>Part One: Point in time measurements</b>		
(1) The average amount of the <i>firm's</i> assets under management (calculated as a three-year rolling average) is £50 billion or more	Assets under management are calculated in accordance with the method that must be used to calculate the amount to be recorded in <i>data element</i> 1A (Total funds under management) in <i>data item</i> FSA038 (Volumes and Type of Business)	SYSC 23 Annex 1 7.7R(2) and SYSC 23 Annex 1 7.10R apply to this calculation.
(2) The <i>firm</i> currently has 10,000 or more outstanding regulated mortgages	<p>A <i>firm's</i> outstanding regulated mortgages are calculated as follows:</p> <p>(a) calculate the amount that must be recorded in row E4.5 (Total) in the box under the successive headings and sub-headings “Regulated Loans”, “Balances outstanding” and “Number” in the <i>MLAR</i>;</p> <p>(b) calculate the amount that must be recorded in row G1.1(d) (total) under the successive headings and sub-headings “As PRINCIPAL administrator” and</p>	



	<p>“Regulated loans” in the <i>MLAR</i>; and</p> <p>(c) add those amounts together.</p>	
<b>Part Two: Revenue measurements</b>		
(3) The average amount of the <i>firm’s</i> total intermediary regulated business revenue (calculated as a three-year rolling average) is £35 million per annum or more	Total intermediary regulated business revenue is calculated in accordance with the method that must be used to calculate the amount to be recorded in <i>data element</i> 4E (Total regulated business revenue) in Section B (Profit and Loss account) of the <i>RMAR</i>	<i>SYSC</i> 23 Annex 1 7.7R(3) applies to this calculation.
(4) The average amount of the <i>firm’s</i> annual revenue generated by regulated consumer credit lending (calculated as a three-year rolling average) is £100 million or more	<p>Annual revenue generated by regulated consumer credit lending is calculated as follows:</p> <p>(a) calculate each amount that must be recorded in column B (Revenue) for the rows headed “Lending” in <i>data item</i> CCR002 (Consumer Credit data: Volumes); and</p> <p>(b) add those amounts together.</p>	<i>SYSC</i> 23 Annex 1 7.7R(3) applies to this calculation.
<p>Note 1: Where Parts 7 to 10 of <i>SYSC</i> 23 Annex 1 refer to a calculation period they refer to the annual period in column (1) for the calculations in Part Two of this table.</p>		
<p>Note 2: Where Parts 7 to 10 of <i>SYSC</i> 23 Annex 1 refer to an averaging period they refer to the three year period in column (1).</p>		
<p>Note 3: Where Parts 7 to 10 of <i>SYSC</i> 23 Annex 1 refer to a reporting period they refer to the period for which reports in column (2) are prepared.</p>		

7.3 G (1) Column (2) of the table in *SYSC* 23 Annex 1 7.2R refers to the *FCA Handbook* versions of the relevant *data items*.

- (2) The boxes referred to in row (2) (outstanding regulated mortgages) correspond to the online version of the *MLAR* as follows:
- (a) paragraph (a) corresponds to *data item* c3; and
  - (b) paragraph (b) corresponds to *data item* G1.1 c1 (d).
- 7.4 R If the applicable financial reporting requirements in column (2) of the table in SYSC 23 Annex 1 7.2R have changed during the relevant period, the calculations must be made in accordance with whatever requirements applied for the applicable period.
- 7.5 R The calculations are made on a solo basis.
- 7.6 R
- (1) The calculation periods, averaging periods and dates in column (1) of the table in SYSC 23 Annex 1 7.2R are defined so as to be consistent with the financial reporting periods used for the corresponding *data item* in column (2) of that table. The rest of this *rule* gives examples of this principle.
  - (2) If a calculation in column (1) of the table in SYSC 23 Annex 1 7.2R is based on per annum or annual revenue and the reporting period in column (2) is based on the *firm's* accounting period:
    - (a) the calculation periods in column (1) are also based on the *firm's* accounting period; and
    - (b) the averaging period in column (1) is made up of the applicable number of accounting periods.
  - (3) If a calculation in column (1) of the table in SYSC 23 Annex 1 7.2R is based on per annum or annual revenue and the reporting period in column (2) is based on a calendar year:
    - (a) the calculation periods in column (1) are also based on a calendar year; and
    - (b) the averaging period in column (1) is made up of the applicable number of calendar years.
  - (4) Where row (2) of column (1) of the table in SYSC 23 Annex 1 7.2R refers to a *firm's* current financial figures it refers to the figures for its most recent reporting period in column (2).
  - (5) A *firm's* most recent reporting period is the one for the *data item* whose required submission date has passed most recently.
- 7.7 R
- (1) This *rule* deals with the establishment of a *firm's* averaging periods.
  - (2) When the table in SYSC 23 Annex 1 7.2R specifies that this paragraph (2) applies:

- (a) each averaging period ends on the last day of a reporting period; and
    - (b) there is an averaging period that ends on each such day.
  - (3) When the table in SYSC 23 Annex 1 7.2R specifies that this paragraph (3) applies:
    - (a) each averaging period ends on the last day of a year; and
    - (b) there is an averaging period that ends on each such day.
  - (4) The term 'year' in (3) has the meaning in SYSC 23 Annex 1 7.6R.
- 7.8 G (1) SYSC 23 Annex 1 7.7R(2) provides for a *firm's* status to be tested every six months if the relevant *data item* is reported in six-month intervals and to be tested yearly if the relevant *data item* is reported yearly.
- (2) SYSC 23 Annex 1 7.7R(3) provides for a *firm's* status to be tested once a year even if the relevant *data item* is reported in six-month intervals.
- 7.9 R (1) This *rule* applies to calculations in Part Two of the table in SYSC 23 Annex 1 7.2R.
- (2) If:
- (a) the *firm* reports the relevant *data items* more than once a year; and
  - (b) each successive report covers the whole year to date;
- the calculations in the table are only based on the *data item* that covers the full year.
- (3) The term year in (2) has the meaning in SYSC 23 Annex 1 7.6R.
- 7.10 R When the table in SYSC 23 Annex 1 7.2R specifies that this *rule* applies, the calculation of the average involves calculating the relevant amount for each reporting period relating to the averaging period, summing those amounts and dividing the result by the applicable number of reporting periods.
- 7.11 R (1) This *rule* applies where:
- (a) the calculation is under Part Two of the table in SYSC 23 Annex 1 7.2R;
  - (b) the reporting period in column (2) is based on the *firm's* accounting period;

- (c) any of the *firm's* accounting periods in the applicable averaging period is not twelve months; and
  - (d) as a result the averaging period would not be a whole number of calendar years.
- (2) Where this *rule* applies, the *firm* must adjust the minimum qualification amount in column (1) proportionately.
- 7.12 G The main example of when SYSC 23 Annex 1 7.11R may apply is where a *firm* changes its accounting reference date.
- 7.13 G
- (1) The financial reporting period may be shorter than the corresponding calculation period.
  - (2) For example, the calculation period may be based on annual revenue but the *firm* may have to prepare the corresponding *data item* in column (2) of the table in SYSC 23 Annex 1 7.2R for revenue arising in six-month periods.
  - (3) If SYSC 23 Annex 1 7.9R applies this does not matter as the calculation is based on the figures for the full year.
  - (4) If SYSC 23 Annex 1 7.9R does not apply, in the example in (2):
    - (a) the calculation of the *firm's* most recent annual revenue in column (1) is based on the most recently ended six-month period and the six-month period before that; and
    - (b) each year within the three year average is based on two six-month periods.
- 7.14 R A qualification condition in column (1) of the table in SYSC 23 Annex 1 7.2R does not apply to a *firm* if the corresponding reporting requirement referred to in column (2) of the table does not currently apply to the *firm*.
- 7.15 R Subject to SYSC 23 Annex 1 7.14R, if the reporting requirement referred to in column (2) of the table in SYSC 23 Annex 1 7.2R did not apply to the *firm* for the whole of its most recent averaging period as defined in SYSC 23 Annex 1 7.2R, the averaging period is shortened to cover the period for which those requirements did apply.
- 7.16 G Reasons why SYSC 23 Annex 1 7.15R may apply to a *firm* include the following:
- (1) the *firm* has only recently been *authorised*;
  - (2) the *firm's* Part 4A permission has only recently been varied to include the relevant *regulated activities*; or

- (3) the *firm* has only recently become subject to the relevant reporting requirements.
- 7.17 G (1) This paragraph gives an example of how SYSC 23 Annex 1 7.15R works.
- (2) In this example:
- (a) the relevant qualification condition is one of those in Part Two of the table in SYSC 23 Annex 1 7.2R;
- (b) the reporting requirement is based on a *firm's* accounting year and reports are due every six *months*;
- (c) the *firm's* accounting year ends on 31<sup>st</sup> December;
- (d) the *firm* is *authorised* or the relevant *regulated activities* are included in its *permission* in February (referred to in this paragraph as the date on which it is authorised).
- (2) The *firm* will not meet the qualification condition before the end of the accounting year in which the *firm* is authorised, however large its business is in the period from February to June. This is because the calculations are based on calculation periods of a year and the *firm* will not have data for the year.
- (3) Following the end of accounting year in which it is authorised, the assessment of whether the *firm* meets the qualification condition is based on the figures for the accounting year in which it is authorised. There is no adjustment to take account of the fact that the *firm* was only authorised part of the way through that period.
- (4) After the end of the second accounting year, the averaging period is two years.
- (5) After the end of the third accounting year there is no further need for SYSC 23 Annex 1 7.15R.

Part Eight: Other qualification conditions for being an enhanced scope SMCR firm

- 8.1 R A *firm* meets a qualification condition for the purposes of identifying an *enhanced scope SMCR firm* under the flow diagram in Part One of this Annex if it meets one of the following criteria:
- (1) the *firm* is a *significant IFPRU firm*;
- (2) the *firm* is a *CASS large firm*; or
- (3) the *firm* notifies the *FCA* in accordance with this Part that it intends to become an *enhanced scope SMCR firm*.

- 8.2 R (1) This *rule* deals with a notification under SYSC 23 Annex 1 8.1R(3).
- (2) The notification may (subject to SYSC 23 Annex 1 2.6R) only be given by:
- (a) a *limited scope SMCR firm*;
  - (b) a *core SMCR firm*; or
  - (c) an *enhanced scope SMCR firm* that is within the one year period in Part Ten of this Annex (When a firm stops being an enhanced scope SMCR firm).
- (3) SYSC 23 Annex 1 2.5R applies to notifications under this *rule*.
- 8.3 G If a *firm* is subject to a *requirement* that it must comply with the *rules* in the *FCA Handbook* applicable to one of the categories of *firm* in SYSC 23 Annex 1 8.1R(1) or SYSC 23 Annex 1 8.1R(2) it is to be treated as falling into that category of *firm* for the purpose of this Annex as well.

#### Part Nine: When a firm becomes an enhanced scope SMCR firm

##### General rule

- 9.1 R (1) A *firm* must comply with the requirements for *enhanced scope SMCR firms* (and becomes an *enhanced scope SMCR firm*) from the date specified in this *rule*.
- (2) If a *firm*:
- (a) was not an *enhanced scope SMCR firm*; and
  - (b) then meets one of the qualification conditions in Part 7 or Part 8 of this Annex;
- the date is twelve *months* after it first meets the first qualification condition that it met.
- (3) Where the first qualification condition it meets is the one in SYSC 23 Annex 1 8.1R(3), the date is three *months* after the *FCA* receives the notice in SYSC 23 Annex 1 8.1R(3).
- (4) (3) also applies if:
- (a) it meets the qualification condition in SYSC 23 Annex 1 8.1R(3) after it meets another qualification condition; and
  - (b) the result of applying (3) would be that the *firm* would become an *enhanced scope SMCR firm* sooner.

##### Meeting the financial thresholds in Part 7

- 9.2 R (1) A *firm* meets one of the qualification conditions in Part 7 of this Annex (financial qualification conditions) on the due date for submission of the relevant *data item* (see (2) and (3) for the meaning of relevant *data item*).
- (2) Except where (3) applies, the relevant *data item* is the *data item* for the final financial reporting period applicable to the averaging period for which the *firm* first meets that qualification condition.
- (3) Where the qualification condition is the one in row (2) of the table in SYSC 23 Annex 1 7.2R, the relevant *data item* is the one for the reporting period for which the *firm* first meets that qualification condition.

Meeting the qualification conditions in Part 8

- 9.3 R A *firm* meets one of the qualification conditions in Part 8 of this annex (other qualification conditions) on the date when:
- (1) the status in SYSC 23 Annex 1 8.1R(1) or SYSC 23 Annex 1 8.1R(2) becomes effective; or (as the case may be)
- (2) the *FCA* receives the notice in SYSC 23 Annex 1 8.1R(3).
- 9.4 G SYSC 23 Annex 1 9.1R and SYSC 23 Annex 1 9.3R mean that a *firm* becomes an *enhanced scope SMCR firm* under Part 8 of this Annex on the date in column (2) of the table in SYSC 23 Annex 1 9.5G.
- 9.5 G Table: Date firm becomes an enhanced scope firm

Qualification condition	Date firm becomes an enhanced scope SMCR firm
The <i>firm</i> is a <i>significant IFPRU firm</i>	It becomes an <i>enhanced scope SMCR firm</i> one year and three <i>months</i> after the date in <i>IFPRU</i> 1.2.3R (the three- <i>month</i> period in <i>IFPRU</i> 1.2.6R(2) plus the one year in this Part).
The <i>firm</i> is a <i>CASS large firm</i> This includes a <i>firm</i> that has elected to be treated as a <i>CASS large firm</i>	If the <i>firm</i> notifies the <i>FCA</i> in accordance with <i>CASS</i> 1A.2.9R(1) or <i>CASS</i> 1A.2.9R(2), it becomes an <i>enhanced scope SMCR firm</i> one year following the 1 February following the notification under <i>CASS</i> .  If the <i>firm</i> notifies the <i>FCA</i> in accordance with <i>CASS</i> 1A.2.9R(3), it becomes an <i>enhanced scope SMCR firm</i> one year after the day it begins to hold <i>client money</i> or <i>safe custody assets</i> .

	If the <i>firm</i> makes an election under CASS 1A.2.5R(1), it becomes an <i>enhanced scope SMCR firm</i> one year after the day the notification made under CASS 1A.2.5R(2)(a) states that the election is intended to take effect.
The <i>firm</i> opts to be an <i>enhanced scope SMCR firm</i> by notifying the <i>FCA</i> using Form O	It becomes an <i>enhanced scope SMCR firm</i> three months after the <i>FCA</i> receives the notice

- 9.6 G (1) The purpose of the one year or three-month period between meeting the conditions for being an *enhanced scope SMCR firm* and the *firm* becoming subject to the requirements for such *firms* is to allow it to make preparations to comply with the new requirements.
- (2) For example, a *core SMCR firm* opting up to be an *enhanced scope SMCR firm* should use this period to apply for approval for its personnel to perform the new *designated senior management functions* that will apply because it has become an *enhanced scope SMCR firm*.
- 9.7 G (1) A *firm* retains its old status during the one year or three-month period described in this Part.
- (2) For example, a *core SMCR firm* that meets one of the qualification conditions for being an *enhanced scope SMCR firm* in SYSC 23 Annex 1 8.1R(1) or SYSC 23 Annex 1 8.1R(2) will remain as a *core SMCR firm* for one year after it meets the qualification condition.

#### Part Ten: When a firm stops being an enhanced scope SMCR firm

##### General rule

- 10.1 R A *firm* that:
- (1) was an *enhanced scope SMCR firm*; and
- (2) then meets none of the qualification conditions in this Annex;
- ceases to be subject to the requirements for *enhanced scope SMCR firms* (and ceases to be an *enhanced scope SMCR firm*) one year after it ceases to meet the last qualification condition that it met.

##### Ceasing to meet the financial thresholds in Part 7

- 10.2 R A *firm* ceases to meet one of the qualification conditions in Part 7 of this Annex (financial qualification conditions) on whichever of the following is applicable:



- (1) the due date for submission of the *data item* for the final financial reporting period applicable to the averaging period for which the *firm* first ceases to meet that qualification condition; or
- (2) (where the qualification condition is the one in row (2) of the table in SYSC 23 Annex 1 7.2R) the due date for submission of the *data item* for the reporting period for which the *firm* first ceases to meet that qualification condition; or
- (3) the date the relevant reporting requirement ceases to apply as referred to in SYSC 23 Annex 1 7.14R.

#### Ceasing to meet the qualification conditions in Part 8

- 10.3 R A *firm* ceases to meet one of the qualification conditions in SYSC 23 Annex 1 8.1R(1) or SYSC 23 Annex 1 8.1R(2) (other qualification conditions) on the date that the status in SYSC 23 Annex 1 8.1R ceases to apply.
- 10.4 R (1) This *rule* deals with a *firm* that has elected to become an *enhanced scope SMCR firm* under SYSC 23 Annex 1 8.1R(3).
- (2) A *firm* may notify the *FCA* that it intends to cancel its election to be an *enhanced scope SMCR firm* under SYSC 23 Annex 1 8.1R(3).
- (3) The *firm* ceases to meet the qualification condition under SYSC 23 Annex 1 8.1R(3) on the date the *FCA* receives the notice.
- (4) SYSC 23 Annex 1 2.5R applies to notifications under this *rule*.

#### Only meeting qualification conditions for a short time

- 10.5 G If the *firm* ceases to meet the relevant qualification condition while the one-year period in Part 9 of this Annex is still running, the one-year period in this Part does not apply. Instead, the *firm* will simply not become an *enhanced scope SMCR firm* in the first place.

#### Only ceasing to meet qualification conditions for a short time

- 10.6 R If:
- (1) the one-year period in SYSC 23 Annex 1 10.1R is still running; and
  - (2) the *firm* again meets a qualification condition in Part Seven or Eight of this Annex;
- then:
- (3) the *firm* remains an *enhanced scope SMCR firm*; and

- (4) the one-year or three-*month* period in Part 9 of this Annex does not apply.

Insert the following annex in the appropriate position. The text (which consists of a form) is included in Part Two of Annex Q of this instrument.

**23 Annex 2R Form O: Changing firm status under the Senior Managers and Certification Regime**

Amend the following as shown.

**24 Senior managers and certification regime: Allocation of prescribed responsibilities**

**24.1 Application**

Main application rules

- 24.1.1 R This chapter applies to an *SMCR firm*, except to the extent that this chapter applies a narrower scope to a particular provision. However, this chapter does not apply to:

(1) an *EEA SMCR firm*; or

(2) a *limited scope SMCR firm*.

...

**24.2 Allocation of FCA-prescribed senior management responsibilities: Main allocation rules**

...

What the FCA-prescribed senior management responsibilities are

...

- 24.2.6 R Table: FCA-prescribed senior management responsibilities

...

FCA-prescribed senior management responsibility	Explanation	Reference letter
...		
<p>(9) Responsibility for:</p> <p>(a) safeguarding the independence of; and</p> <p>(b) oversight of the performance of;</p> <p>the internal audit function, in accordance with the <i>internal audit requirements for SMCR firms</i>.</p>	<p>(1) This responsibility includes responsibility for:</p> <p>(a) safeguarding the independence of; and</p> <p>(b) oversight of the performance of;</p> <p>a person approved to perform the Head of Internal Audit function for the <i>firm</i> if that function applies to the <i>firm</i>.</p> <p>...</p> <p>(4) The Head of Internal Audit function means the <i>PRA's</i> Head of Internal Audit <i>designated senior management function</i> or the <i>head of internal audit function</i>.</p>	(j)
...		
<p>(11) Responsibility for:</p> <p>(a) safeguarding the independence of; and</p> <p>(b) oversight of the performance of;</p> <p>the risk function, in accordance with the <i>risk control requirements for SMCR firms</i>.</p>	<p>(1) This responsibility includes responsibility for:</p> <p>(a) safeguarding the independence of; and</p> <p>(b) oversight of the performance of;</p> <p>a person approved to perform the Chief Risk function for the <i>firm</i> if that function applies to the <i>firm</i>.</p> <p>...</p>	(l)

	(4) The Chief Risk function means the <i>PRA's Chief Risk designated senior management function or the chief risk officer function.</i>	
...		
(17) ...	...	...
<p><u>(18) Responsibility for taking reasonable steps to ensure that every person involved in the performance of the firm's internal audit function is independent from the persons who perform external audit, including:</u></p> <p><u>(a) supervision and management of the work of outsourced internal auditors; and</u></p> <p><u>(b) management of potential conflicts of interest between the provision of external audit and internal audit services.</u></p>	<p><u>This only applies if the firm outsources its internal audit function.</u></p>	(j-3)
<p><u>(19) Responsibility for:</u></p> <p><u>(a) managing the firm's internal stress tests; and</u></p> <p><u>(b) ensuring the accuracy and timeliness of information provided to the FCA and other regulatory bodies for the purposes of stress testing.</u></p>	<p><u>Stress testing refers to stress testing under SYSC 20 (Reverse stress testing).</u></p> <p><u>This responsibility only applies to a firm to which SYSC 20 applies.</u></p>	(s)
<p><u>(20) The responsibilities allocated under COLL 6.6.27R or COLL</u></p>	<p><u>Only applies to a firm to which the rules in column (1) apply.</u></p>	(za)

<p><u>8.5.22R (Allocation of responsibility for compliance to an approved person).</u></p>		
<p><u>(21) Responsibility for the development and maintenance of the firm's business model by the governing body.</u></p>	<p><u>Business model means the same thing as it does in Schedule 6 to the Act (Threshold Conditions).</u></p> <p><u>This responsibility applies even if the business model threshold condition does not apply to it.</u></p>	<p><u>(t)</u></p>

...

**24.3 Who prescribed responsibilities should be allocated to**

Seniority and authority

24.3.1 G The FCA expects that a *person* who has responsibility for an FCA-prescribed senior management responsibility :

- (1) will generally (in the case of the FCA-prescribed senior management responsibilities in ~~SYSC 24.3.3G~~ SYSC 24.3.3G(1)) be the most senior employee or officer responsible for managing that area (or the most senior below the *chief executive*); and

...

Executive or non-executive

...

24.3.3 G (1) ~~The~~ Subject to (2), the FCA expects that normally a *firm* will allocate the other FCA-prescribed senior management responsibilities to an *SMF manager* who performs executive functions for the *firm*.

- (2) The relevant rules in COLL deal with the persons to whom a firm should allocate FCA-prescribed senior management responsibility (za) (COLL value for money assessment and independent director requirements).

Exceptions for small non-complex firms

24.3.4 G The *FCA* accepts that it may not be practical for a small non-complex *firm* to comply with the parts of *SYSC* 24.3.1G(1), *SYSC* 24.3.2G and ~~*SYSC* 24.3.3G~~ *SYSC* 24.3.3G(1) that would otherwise apply to it.

...

Not assigning too many responsibilities to one person

...

24.3.10 G ...

(2) The *firm* should make the judgement:

...

(d) any other applicable *Handbook* requirements, including :

...

(ii) *SYSC* 24.3.7G to *SYSC* 24.3.9G; and

(iii) article 21 of the *MiFID Org Regulation* (as applied in accordance with *SYSC* 1 Annex 1 2.8AR, *SYSC* 1 Annex 1 3.2-AR, *SYSC* 1 Annex 1 3.2-BR, *SYSC* 1 Annex 1 3.2CR and *SYSC* 1 Annex 1 3.3R); and

...

...

...

## 24 Which FCA-prescribed senior management responsibilities apply to which kind of firm

### Annex 1

Introduction and exclusions

...

1.3 G ...

1.4 R The following *FCA-prescribed senior management responsibilities* do not apply to a *full-scope UK AIFM* in relation to its *managing an AIF*:

(1) responsibility (j) (internal audit oversight);

(2) responsibility (k) (compliance oversight);

(3) responsibility (l) (risk oversight);

(4) responsibility (j-3) (independence of outsourced internal audit); and

(5) responsibility (t) (business model):

...

Insert the following new Parts in SYSC 24 Annex 1 where indicated. The text is not underlined.

Insurance sector firms

...

3.3 R Table: FCA-prescribed senior management responsibility applying to insurance sector firms

Brief description of responsibility	Reference letter of responsibility	Solvency II firm	Third country branches	Other insurance sector	ISPV
...	...	...	...	...	...

Solo regulated firms

4.1 R (1) The table in SYSC 24 Annex 1 4.2R sets out which *FCA-prescribed senior management responsibilities* apply to which type of *core SMCR firm* and *enhanced scope SMCR firm*.

(2) *SMCR firms* in (1) are divided into the following categories for the purposes of in (1):

- (a) *UK core SMCR firm;*
- (b) *overseas core SMCR firm (excluding an EEA SMCR firm);*  
and
- (c) *enhanced scope SMCR firm.*

4.2 R Table: FCA-prescribed senior management responsibility applying to solo regulated firms

(1)	(2)	(3)	(4)	(5)
-----	-----	-----	-----	-----

Brief description of responsibility	Reference letter of responsibility	UK core firm	Third country core firm	Enhanced scope firm
Responsibility for the <i>firm's</i> performance of its obligations under the senior managers regime	(a)	✓	✓	✓
Responsibility for the <i>firm's</i> performance of its obligations under the employee certification regime	(b)	✓	✓	✓
<i>Financial crime</i>	(d)	✓	✓	✓
<i>COCON</i>	(b-1)	✓	✓	✓
<i>Management responsibilities maps</i>	(c)	×	×	✓
Internal audit oversight	(j)	×	×	✓
Compliance oversight	(k)	×	×	✓
Risk oversight	(l)	×	×	✓
CASS	(z)	✓	✓	✓
Independence of outsourced internal audit	(j-3)	×	×	✓
Business model	(t)	×	×	✓
Stress tests	(s)	×	×	✓
<i>COLL</i> value for money assessment and independent director requirements)	(za)	✓	✓	✓
<i>UK</i> risk management	(aa)	×	✓	×
Compliance with <i>UK</i> regulatory system	(ff)	×	✓	×
Escalation of correspondence	(ee)	×	✓	×
<p><b>Note:</b> The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> in SYSC 24 Annex 1 4.1R. Therefore:</p> <p>(1) UK core firm (column three) refers to SYSC 24 Annex 1 4.1R(2)(a);</p>				



- (2) Third country core firm (column four) refers to SYSC 24 Annex 1 4.1R(2)(b); and  
 (3) Enhanced scope firm (column five) refers to SYSC 24 Annex 1 4.1R(2)(c).

Amend the following as shown.

**25 Senior managers and certification regime: Management responsibilities maps and handover procedures and material**

**25.1 Application and purpose**

Main application rules

25.1.1 R This chapter applies to:

- (1) an *SMCR banking firm*; ~~and~~
- (2) a *Solvency II firm* (including a *large non-directive insurer*) but excluding:
  - (a) an *insurance special purpose vehicle*; and
  - (b) a *firm* in SYSC 23 Annex 1 4.2R (*firms* in run-off); and
- (3) an enhanced scope SMCR firm;

except to the extent that this chapter applies a narrower scope to a particular provision.

...

**25.3 Management responsibilities maps: Exclusion of non-financial services activities for some firms** [~~This part has been left blank deliberately~~]

25.3.1 R An enhanced scope SMCR firm may prepare its management responsibilities map so that (subject to SYSC 25.3.4R) it only includes its management and governance arrangements to the extent that they cover, support or otherwise relate to its SMCR financial activities.

25.3.2 G Support functions that should be covered by a management responsibilities map despite SYSC 25.3.1R might include:

- (1) human resources;
- (2) the firm's information technology; and
- (3) compliance and legal services.

25.3.3 G (1) A firm may have a non-financial services business in addition to carrying on its SMCR financial activities. Its support services may

support both aspects of its business and its *management responsibilities map* may therefore still need to cover the support services even though they also cover the *firm's non-financial services business*.

- (2) Take for example human resources. If the *firm's human resources function* covers the *firm's* entire workforce without separating the parts that deal with the *firm's* financial services and its other business, the *management responsibilities map* should cover the entire human resources function.
- (3) On the other hand, the *firm* may separate the part of its human resources function that deals with those working in its financial services business from the part that deals with the other part of its business. In that case the *management responsibilities map* may leave out (subject to SYSC 25.3.4R) the part of the human resources function that covers its non-financial services business.

25.3.4 R If a *firm* uses the exclusion in SYSC 25.3.1R it must include sufficient information about the excluded management and governance arrangements to show how the included management and governance arrangements fit in with the *firm's* management and governance arrangements as a whole.

## 25.4 Guidance about what should be in a management responsibilities map

...

25.4.11 G The *executive director function*, the *other local responsibility function*, the *group entity senior manager function*, the *partner function* and the *other overall responsibility function* are defined generally and generically and can be performed by several people. Therefore, there is no need to explain why several people perform one of the functions.

...

## 25.9 Handover procedures and material

Application

...

25.9.3 R ~~{This has been left blank deliberately}~~ This section does not apply to a *full-scope UK AIFM* in relation to its *managing an AIF*.

...

## 26 Senior managers and certification regime: Overall and local responsibility

### 26.1 Application

Main application rules

- 26.1.1 R This chapter applies to:
- (1) an *SMCR banking firm*; ~~and~~
  - (2) a *Solvency II firm* (including a *large non-directive insurer*) but excluding:
    - (a) an *insurance special purpose vehicle*; and
    - (b) a *firm* in SYSC 23 Annex 1 4.2R (*firms* in run-off); and
  - (3) an enhanced scope SMCR firm;

except to the extent that this chapter applies a narrower scope to a particular provision.

...

Territorial scope

...

- 26.1.7 R Table: Application of this chapter to a third-country SMCR firm

Reference in this chapter	Modification
...	...
chief executive	<i>branch manager or the person performing <u>the head of third country branch function</u> or the PRA's Head of Overseas Branch <i>designated senior management function</i></i>

**26.2 Purpose**

- 26.2.1 G The purpose of this chapter is to ensure, together (in the case of a PRA-*authorised person*) with the equivalent *PRA* requirements and the requirements about *FCA-prescribed senior management responsibilities* in SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities), that:

...

...

## 26.4 Exclusions

Exclusions where other requirements apply

26.4.1 R ...

26.4.2 R *SYSC 26.3 (Main rules) does not require a ~~firm~~ PRA-authorised person to ensure that SMF managers have local or overall responsibility for any activity, business area or management function that is:*

...

...

Exclusion where the 12-week rule applies

26.4.6 R (1) This rule applies where:

(a) a *firm* appoints someone to perform a function in order to provide cover as described in *SUP 10C.3.13R(1)* (The 12-week rule) or (in the case of a PRA-authorised person) the PRA equivalent; and

(b) the *firm* has allocated any responsibilities (the “Responsibilities”) under *SYSC 26.3 (Main rules)* to the *SMF manager* (the absent manager) who is absent as described in *SUP 10C.3.13R(2)* or (in the case of a PRA-authorised person) the PRA equivalent.

(2) While the disapplication of the *designated senior management function* provided for in *SUP 10C.3.13R* or (in the case of a PRA-authorised person) the PRA equivalent is still in force the *firm* may allocate the Responsibilities to an *employee* who is not an *SMF manager*.

...

26.4.8 G ...

Exclusion of non-financial services activities

26.4.9 R *SYSC 26.3 (Main rules) only requires an enhanced scope SMCR firm to allocate responsibility for activities, business areas and management functions to the extent that they support, form part of or otherwise relate to its SMCR financial activities.*

26.4.10 G *SYSC 25.3.2G and SYSC 25.3.3G (Management responsibilities maps: Exclusion of non-financial services activities for some firms) are relevant to when an enhanced scope SMCR firm may exclude support services from the allocation of responsibilities under this chapter.*

Exclusion for AIFMD

26.4.11 R A full-scope UK AIFM may treat *managing an AIF* as not being part of its *SMCR financial activities* for the purposes of this chapter.

...

**26.10 Group management arrangements and outsourcing**

...

26.10.2 G ...

26.10.3 G (1) This chapter does not cover responsibility for an aspect of a *firm's PRA-authorised person's* affairs managed by an individual approved to perform the Group Entity Senior Manager or the Group Entity Senior Insurance Manager *PRA-designated senior management function* (see SYSC 26.4.2R (Exclusions where other requirements apply)).

(2) Where a responsibility is held by someone approved to perform one of those *PRA-designated senior management functions* for the ~~firm~~ *PRA-authorised person*, there is no need to appoint that person under this chapter and apply the arrangements in SYSC 26.10.1G.

...

...

**27 Senior managers and certification regime: Certification regime**

...

**27.2 Requirements of the certification regime**

...

Fitness to act

...

27.2.8 G ...

(3) In deciding how much reliance to put on the contractor, the *firm* should take into account:

(a) the familiarity of the contractor with the obligations of *firms* under this chapter, the corresponding *PRA* requirements (if the *firm* is a *PRA-authorised person*) and the requirements of the *Act* described in this chapter;

...

...

**27.6 Other exclusions**

...

27.6.6 R ...

Exclusions: Sole traders

- 27.6.7 G (1) An individual *sole trader* will not themselves be a *certification employee*.
- (2) However members of a *sole trader's* staff may be.
- (3) Therefore the certification regime does not apply to a *sole trader* with no *employees*.

Exclusions: Internally managed AIFs

- 27.6.8 R This chapter does not apply to a *firm* that meets the following conditions:.
- (1) it is an *internally managed AIF*;
- (2) it is a *body corporate*; and
- (3) it is not a *collective investment scheme*.

...

**27.8 Definitions of the FCA certification functions**

CASS oversight function

- 27.8.1 R (1) Each of the following is an *FCA certification function*:
- (a) in relation to a *CASS medium firm* and a *CASS large firm* (other than a *CASS large debt management firm*), the function of acting in the capacity of a *person* who is allocated the function in CASS 1A.3.1AR (oversight of operational effectiveness);
- (b) in relation to a *CASS large debt management firm*, the function of acting in the capacity of a *person* who is allocated the function in CASS 11.3.4R (oversight of operational effectiveness);
- (c) in relation to a *CASS small firm*, the function of acting in the capacity of a *person* who is allocated the function in CASS 1A.3.1R (oversight of operational effectiveness).

...

...

Material risk takers

...

27.8.15 R Table: Definition of material risk taker

<u>Type of SMCR firm</u>	<u>Employees included</u>
...	
(3) ...	
<u>(4) A firm falling within SYSC 19A.1 (application provisions for the remuneration code for IFPRU investment firms)</u>	<u>Each member of the Remuneration Code staff of the firm in column (1).</u>
<u>(5) A firm that would fall within SYSC 19A.1 if it applied to an incoming EEA firm</u> <u>For these purposes sub-paragraphs (i) and (ii) in SYSC 19A.1.1R(1)(d) (application of the Remuneration Code) do not apply.</u>	<u>In relation to a firm in column (1), the definition of Remuneration Code staff is extended so that it includes employees of this kind of firm in the same way as it includes employees of an overseas firm in row (4) of this table.</u>
<u>(6) A firm falling within SYSC 19B.1 (application provisions for the remuneration code for a full-scope UK AIFM)</u>	<u>Each member of the AIFM Remuneration Code staff of the firm in column (1).</u>
<u>(7) An above-threshold non-EEA AIFM or an incoming EEA AIFM</u>	<u>In relation to a firm in column (1), the definition of AIFM Remuneration Code staff is extended so that it includes employees of this kind of firm in the same way as it includes employees of firms in row (6) of this table.</u>
<u>(8) A firm falling within SYSC 19C.1 (application provisions for remuneration code for BIPRU firms)</u>	<u>Each member of the BIPRU Remuneration Code staff of the firm in column (1).</u>
<u>(9) A firm that would fall within SYSC 19C.1 if it applied to an</u>	<u>In relation to a firm in column (1), the definition of BIPRU Remuneration Code staff is extended so that it</u>

<u>incoming EEA firm or an incoming Treaty firm</u>	includes <u>employees of this kind of firm</u> in the same way as it includes <u>employees of a third country BIPRU firm</u> in column (1) of row (8) of this table.
(10) A <u>firm</u> falling within SYSC 19E.1 (application provisions for remuneration code for UCITS management companies)	Each member of the <u>UCITS Remuneration Code staff</u> of the <u>firm</u> in column (1).
(11) An <u>EEA UCITS management company</u>	In relation to a <u>firm</u> in column (1), the definition of <u>UCITS Remuneration Code staff</u> is extended so that it includes <u>employees of this kind of firm</u> in the same way as it includes <u>employees of firms</u> in row (10) of this table.

...

## TP 6 Transitional Provision 6

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
...					
5	...				
6	SYSC 5.2.30R (row 2) and SYSC 5.2.33R [deleted]	R	The <del>rule</del> in column 2, as it was in force on 28 June 2018, continues to apply to a <del>benchmark administrator</del> , until that administrator becomes authorised or registered under the <del>benchmark regulation</del> , or ceases to be authorised for	From 29 June 2018	Already in force



			<i>administering a specified benchmark.</i>		
...	...	...	...	...	...

...

**Annex C**

**Amendments to the Code of Conduct sourcebook (COCON)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

**Part 1: Comes into force [ ] 20[ ] [main commencement date for solo-regulated firms]**

**1 Application and purpose**

**1.1 Application**

...

To whom does it apply?

...

1.1.2 R Table: To whom does COCON apply?

Persons to whom COCON Applies	Comments
(6) ...	<p>...</p> <p>(B) ...</p> <p><u>(C) This row (6) also does not apply to an <i>employee</i> of an <i>SMCR firm</i> that is an <i>FCA-authorised person</i> until [ ] 20[ ] [one year after main commencement date for solo-regulated firms].</u></p>
...	

...

To what conduct does it apply?

...

1.1.8A R (1) This *rule* applies to a *person* (P):

- (a) who is an *approved person* approved to perform a *controlled function* under ~~*SUP 10A.1.15R*~~ to ~~*SUP 10A.1.16BR*~~ *(appointed representatives) SUP 10A (FCA Approved Persons in Appointed Representatives)* in relation to an *appointed representative (AR)*; and

- (b) ~~for whom P's authorised approved person employer is an SMCR firm (F); and~~
- (c) to whom *COCON* also applies in P's capacity as a member of F's the conduct rules staff of AR's principal.

(2) ...

(a) ...

(i) ...

(ii) in relation to the carrying on of a *regulated activity* by ~~the appointed representative in SUP 10A.1.15R to SUP 10A.1.16BR concerned~~ AR; and

...

...

#### 4 Specific guidance on individual conduct rules

...

#### 4.2 Specific guidance on senior manager conduct rules

...

4.2.16 G The following is a non-exhaustive list of examples of conduct that would be in breach of *rule SC2*.

...

(8) For a *senior conduct rules staff member* who is responsible for the compliance function, failing to ensure that:

...

(e) the method of determining the remuneration complies, where applicable, with the *Remuneration Code* or, for a *Solvency II firm* or a *small non-directive insurer*, other relevant requirements in relation to remuneration, as well as those remuneration codes applicable to firms as set out in SYSC 19B – 19E.

...

**Part 2: Comes into force [ ] 20[ ] [one year after main commencement date for solo-regulated firms]**

**1 Application and purpose**

**1.1 Application**

...

To whom does it apply?

...

**1.1.2 R Table: To whom does COCON apply?**

Persons to whom COCON Applies	Comments
...	
<p>(6) Any <i>employee</i> of an <i>SMCR firm</i> not coming within another row of this table, except one listed in column (2) of this table.</p>	<p>...</p> <p><del>(C) This row (6) also does not apply to an <i>employee</i> of an <i>SMCR firm</i> that is an <i>FCA authorised person</i> until [ ] 20[ ] [one year after main commencement date for solo regulated firms].</del></p>
...	

...

## Annex D

### Amendments to the Threshold Conditions (COND)

In this Annex, underlining indicates new text.

#### 2            **The threshold conditions**

...

#### 2.5         **Suitability**

...

- 2.5.3       G    (1)    The emphasis of the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 of the *Act* is on the suitability of the *firm* itself. The suitability of each *person* who performs a *controlled function* will be assessed by the *FCA* and/or the *PRA*, as appropriate, under the *approved persons* regime (in relation to an *FCA-approved person*, see *SUP* 10A (FCA Approved Persons in Appointed Representatives), *SUP* 10C (FCA senior managers regime for approved persons in SMCR firms) and *FIT*). In certain circumstances, however, the *FCA* may consider that the *firm* is not suitable because of doubts over the individual or collective suitability of *persons* connected with the *firm*.

...

...

## Annex E

## Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

### 1.1A Application

Who?

- 1.1A.1 R *APER* applies to *FCA-approved persons* who are ~~either:~~
- (1) ~~*approved persons of firms that are not SMCR firms; or*~~
  - (2) ~~*approved persons*~~ approved to perform a *controlled function* in *SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives)* *SUP 10A (FCA Approved Persons in Appointed Representatives)*.

- 1.1A.1A G (1) ~~*APER does not apply to FCA-approved persons of SMCR firms. COCON applies instead.*~~
- (2) ~~*However, APER applies to approved persons approved to perform a controlled function under SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives) even if the appointed representative's principal is an SMCR firm. [deleted]*~~

What?

- 1.1A.2 R (1) *APER* applies to the performance by an *approved person* of *FCA controlled functions* in *SUP 10A (FCA Approved Persons in Appointed Representatives)* (whether or not approval has been sought and granted) .

...

- (5) *APER does not apply to conduct unless it is within the scope of section 64A(4) of the Act (Rules of conduct)*.

...

Coverage of APER

- 1.1A.6 G ~~*APER 1.1A.7G gives examples of the effect of APER 1.1A.1R and APER 1.1A.2R. The first column says whether the example involves an FCA-approved person in relation to one or two firms. The second column explains what functions APER covers in the scenario set out in the first column. [deleted]*~~

## 1.1A.7 Table: Examples of what activities APER covers

FCA approved	Coverage of APER
(1) Yes, in relation to <i>firm A</i>	Applies to the <i>FCA controlled function</i> . Also applies to any other function performed for <i>firm A</i> in relation to the carrying on by <i>firm A</i> of a <i>regulated activity</i> even if it is not a <i>controlled function</i> .
(2) Yes, in relation to <i>firm A</i> . No, in relation to <i>firm B</i> ,	In relation to <i>firm A</i> , the answer is the same as for scenario (1). However, <i>APER</i> does not apply to any function that the <i>approved person</i> carries on in relation to <i>firm B</i> even if that function relates to <i>regulated activities</i> carried out by <i>firm B</i> . However, if the function that they perform in relation to <i>firm B</i> is a <i>controlled function</i> the <i>approved person</i> and <i>firm B</i> may be subject to legal sanctions (see <i>SUP 10A.13.1G</i> to <i>SUP 10A.13.2G</i> ).

- 1.1A.8 G (1) ~~A person may be an approved person in relation to more than one firm. When that is the case, APER applies in relation to all those firms.~~
- (2) ~~APER does not apply if the firm is an SMCR firm, except for approved persons of an appointed representative of an SMCR firm.~~
- (3) ~~If a person is an approved person of a firm (A) that is not an SMCR firm and also of another firm (B) that is an SMCR firm, the result is:~~
- ~~(a) APER applies to the approved person in relation to firm A; and~~
- ~~(b) COCON applies to the approved person in relation to firm B. [deleted]~~
- 1.1A.9 G (1) ~~APER 1.1A refers to an approved person's firm. This means their authorised approved person employer. APER 1.1A also refers to an approved person of a firm.~~
- (2) ~~Under section 59 of the Act (Approval for particular arrangements) there are two kinds of approved person.~~
- (3) ~~Section 59(1) of the Act describes the first. It covers a person who performs a controlled function under an arrangement entered into by an authorised person ("A"). In this case, the authorised approved person employer is A.~~

- (4) Section 59(2) of the *Act* describes the second. It covers a *person* who performs a *controlled function* under an arrangement entered into by a contractor ("B") of an *authorised person* ("A"). In this case, the *authorised approved person employer* is A (and not B). [deleted]

...

Replace the defined term "firm" wherever it appears in APER 2, APER 3 and APER 4 with the defined term "APER employer". This change is not made in those provisions of APER amended in the following portion of this annex.

### 3 Code of Practice for Approved Persons: general

#### 3.1 Introduction

...

- 3.1.7A G *Statements of Principle 1 to 4 apply to all approved persons. A person performing an accountable higher management function is also subject to the additional requirements set out in Statements of Principle 5 to 7 in performing that accountable function. Those responsible under SYSC 4.4.5R (Apportionment of responsibilities) for the firm's apportionment obligation will be specifically subject to Statement of Principle 5 (and see, in particular, APER 4.5.6G). In addition, it will be the responsibility of any such approved person to oversee that the firm has appropriate systems and controls under Statement of Principle 7 (and see, in particular, APER 4.7.3G).*

- 3.1.7B G (1) Statements of Principle 1 to 4 apply to an approved person's conduct in relation to:
- (a) the appointed representative for which they work; and
- (b) things directly done for their authorised approved person employer.
- (2) Statements of Principle 5 to 7 only apply to an approved person's management functions in relation to the appointed representative for which they work.

...

- 3.1.9 G (1) UK domestic firms An APER employer that has its registered office (or, if it has no registered office, its head office) in the United Kingdom with a premium listing of equity shares are is subject to the UK Corporate Governance Code, whose internal control provisions are amplified in the publication entitled 'Guidance on Risk Management, Internal Control and Related Financial and Business Reporting (September 2014)' issued by the Financial Reporting



Council. ~~Firms regulated by the FCA~~ An APER employer in this category will be subject to that code as well as to the requirements and standards of the *regulatory system*.

(2) ~~Where (1) applies, in~~ forming an opinion whether *approved persons* have complied with ~~its~~ the requirements of the regulatory system, the FCA will give due credit for their following corresponding provisions in the *UK Corporate Governance Code* and related *guidance*.

3.1.10 R (1) ~~In the case of an approved person approved to perform a controlled function in SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives), a reference in in APER 2 to APER 4 to a firm is a reference to:~~

(a) ~~the appointed representative in relation to which that approved person performs the controlled function in SUP 10A.1.15R to SUP 10A.1.16BR; and~~

(b) ~~their authorised approved person employer.~~

(2) ~~For the purposes of Statements of Principle 5 to 7 the reference is only to (a). [deleted]~~

...

#### 4 Code of Practice for Approved Persons: specific

...

#### 4.5 Statement of Principle 5

...

4.5.2 G In the opinion of the FCA, conduct of the type described in APER 4.5.3G, APER 4.5.4G, ~~APER 4.5.6G~~ or APER 4.5.8G does not comply with *Statement of Principle 5*.

...

4.5.6 G ~~In the case of an approved person who is responsible under SYSC 4.4.5R(1) for dealing with the appointment of responsibilities under SYSC 4.4.3R, failing to take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among the firm's directors and senior managers falls within APER 4.5.2G. [deleted]~~

4.5.7 G Behaviour of the type referred to in APER 4.5.6G includes, but is not limited to:

(1) ~~failing to review regularly the significant responsibilities which the firm is required to apportion;~~

- (2) ~~failing to act where that review shows that those significant responsibilities have not been clearly apportioned. [deleted]~~

...

#### 4.7 Statement of Principle 7

...

- 4.7.3 G ~~Failing to take reasonable steps to implement (either personally or through a compliance department or other departments) adequate and appropriate systems of control to comply with the relevant requirements and standards of the *regulatory system* in respect of the *regulated activities* of the ~~firm~~ *APER employer* in question (as referred to in *Statement of Principle 7*) falls within *APER 4.7.2G*. In the case of an *approved person* who is responsible, under *SYSC 4.4.5R(2)*, with overseeing the *firm's* obligation under *SYSC 4.1.1R*, failing to take reasonable care to oversee the establishment and maintenance of appropriate systems and controls falls within *APER 4.7.2G*.~~

...

- 4.7.9 G ~~In the case of the *money laundering reporting officer*, failing to discharge the responsibilities imposed on them by the *firm* in accordance with *SYSC 6.3.9R* falls within *APER 4.7.2G*. [deleted]~~

- 4.7.10 G ~~In the case of an *approved person* performing an *accountable higher management function* responsible for compliance in respect of the following provisions, failing to take reasonable steps to ensure that appropriate compliance systems and procedures are in place falls within *APER 4.7.2G*: [deleted]~~

(1) ~~[deleted]~~

(2) ~~*SYSC 6.1.4R*; or~~

(3) ~~article 22(3) of the *MiFID Org Regulation* (as applied in accordance with *SYSC 1 Annex 1 2.8AR*, *SYSC 1 Annex 1 3.2 AR*, *SYSC 1 Annex 1 3.2 BR*, *SYSC 1 Annex 1 3.2CR* and *SYSC 1 Annex 1 3.3R*); or~~

(4) ~~*SYSC 6.1.4AR*.~~

...

- 4.7.11A G ~~Where the *approved person* is a *proprietary trader* under *SUP 10A.9.10R*, failing to maintain and comply with appropriate systems and controls in relation to that activity falls within *APER 4.7.2G*. [deleted]~~

...



## Annex F

**Amendments to the Fit and Proper test for Employees and Senior Personnel sourcebook  
(FIT)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1 General**

**1.1 Application and purpose**

1.1.1 G *FIT* applies to:

- (1) ~~a firm (including an SMCR firm);~~  
...
- (6) a *certification employee* performing an *FCA certification function*;  
~~and~~
- (7) a *person* whom an *SMCR firm* is proposing to certify to perform an *FCA certification function*; and
- (8) a board director as set out in FIT 1.1.2(e).

1.1.2 G The purpose of *FIT* is to set out and describe the criteria that:

- (1) an *SMCR firm* should consider when:  
...
- (c) assessing the fitness and propriety of a *person* whom the *firm* is proposing to certify to perform an *FCA certification function*; ~~and~~
- (d) assessing the continuing fitness and propriety of a *person* whom the *firm* has certified to perform an *FCA certification function*; and
- (e) (in the case an *FCA-authorised person* that is not a *limited scope SMCR firm*) assessing the fitness of a *non-SMF board director subject to competence requirements under the competent employees rule, any directly applicable EU legislation or any other requirement of the regulatory system.*

1.1.3 G ~~The table in FIT 1.1.4G summarises the situations to which FIT applies.~~  
[deleted]

1.1.4 G Table: Situations to which *FIT* applies [deleted]

What <i>FIT</i> applies to	Does it apply to <i>SMCR firms</i> ?	Does it apply to <i>firms</i> that are not <i>SMCR firms</i> ?	Comment
(1) A <i>firm</i> assessing the fitness and propriety of a <i>candidate</i> whom the <i>firm</i> is proposing to put forward for approval	Yes	No	However, the answer to Question 11 in <i>SUP-10A Annex 1</i> (Frequently asked questions) says that the <i>FCA's</i> approval process is not a substitute for the checks that a <i>firm</i> should be carrying out on its prospective recruits. <i>FIT</i> may be a useful guide to matters that a <i>firm</i> that is not an <i>SMCR firm</i> should take into account.
(2) A <i>firm</i> assessing the continuing fitness and propriety of an <i>approved person</i>	Yes	No	However, a <i>firm</i> should employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them ( <i>SYSC 5.1</i> ). <i>FIT</i> may be a useful guide to matters which a <i>firm</i> should take into account if it is not an <i>SMCR firm</i> .
(3) The <i>FCA</i> assessing the fitness and propriety of a <i>candidate</i> for approval as an <i>approved person</i>	Yes	Yes	
(4) The <i>FCA</i> assessing the continuing fitness and propriety of an <i>approved person</i>	Yes	Yes	

(5) <del>A firm assessing the fitness and propriety of a person whom a firm is proposing to certify to perform an FCA certification function</del>	Yes	No	See the comment on row (2)
(6) <del>A firm assessing the continuing fitness and propriety of a person whom a firm has certified to perform an FCA certification function</del>	Yes	No	See the comment on row (2)

**1.2 Introduction**

1.2.-1 G Under section 60A(1) of the *Act*, before ~~an SMCR~~ 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.

...

1.2.1B 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*, ~~an SMCR~~ a firm must have particular regard to whether that *person*:

...

...

**1.3 Assessing fitness and propriety**

...

1.3.2A G ~~An SMCR~~ A firm assessing the fitness and propriety of *staff being assessed under FIT* should consider:

...

1.3.2B G ~~An SMCR~~ A firm is reminded that, in assessing a *candidate* for a position within the *management body* of the firm, SYSC 4.3A.3R(3) requires the firm

to ensure that the management body, as a collective, possesses adequate knowledge, skills and experience to understand the *firm's* activities.

- 1.3.3 G The criteria listed in *FIT 2.1* to *FIT 2.3* are *guidance* and will be applied in general terms when the *FCA* is determining a *person's* fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination. ~~An SMCR~~ A firm assessing the fitness and propriety of *staff being assessed under FIT* should be guided by substantially the same criteria in *FIT 2.1* to *FIT 2.3* (to the extent applicable to the *firm*), recognising that this is not intended to be a definitive list of matters to be considered.
- 1.3.4 G If a matter comes to the *FCA's* attention which suggests that the *person* might not be fit and proper, the *FCA* will take into account how relevant and how important it is. In the same way, if a matter comes to the attention of ~~an SMCR~~ a firm which suggests that any *staff being assessed under FIT* might not be fit and proper, the *firm* should take into account how relevant and how important that matter is.
- 1.3.4A G ~~An SMCR~~ A firm assessing the continuing fitness and propriety of an *approved person* is required to notify the *FCA* under section 63(2A) of the *Act* if it forms the opinion that there are grounds on which the *FCA* could withdraw its approval (see *SUP 10C.14.24R*). In discharging its obligation to notify the *FCA*, ~~an SMCR~~ a firm should take into account how relevant and how important the matter is that comes to its attention which suggests an *approved person* might not be fit and proper before determining that a notification should be made.
- 1.3.4B G ~~An SMCR~~ A firm assessing the continuing fitness and propriety of *staff being assessed under FIT* should assess the role that the individual is actually performing at the time the assessment is done. For this purpose, the assessor(s) should be provided with an up-to-date job description for that individual in advance of the assessment.

...

## 2 Main assessment criteria

### 2.1 Honesty, integrity and reputation

...

- 2.1.1A G ~~An SMCR~~ A 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.

...

2.1.2A G In considering the reputation of *staff being assessed under FIT 2.1.1AG* ~~an~~ *SMCR* a 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 2.1.1G* to which the *FCA* will have regard, and to which ~~an~~ *SMCR* a firm should also have regard, include, but are not limited to:

...

## 2.2 Competence and capability

...

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* a firm, in accordance with *FIT 1.1.2G*, should have regard to all relevant matters including but not limited to:

...

...

2.2.2A G The *FCA* would expect ~~an~~ *SMCR* a 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 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

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

...

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.

...

## Annex G

### Amendments to the Prudential sourcebook for Investment Firms (IFPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 4           **Credit risk**

...

#### 4.3           **Guidance on internal ratings based approach: high level material**

...

Corporate governance

#### 4.3.8        G     ...

- (2)   The *FCA* expects an appropriate individual in a ~~*significant influence function*~~ *designated senior management function* role to provide to the *FCA* on an annual basis written attestation that the rating system permissions required by the *EU CRR* have been carried out appropriately.

[**Note:** see articles 189 and 20(6) of the *EU CRR* and article 3(1)(7) of *CRD*]

...

## Annex H

### Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text

#### **19 Pensions supplementary provisions**

...

#### **19.5 Independent governance committees (IGCs)**

...

19.5.8 G (1) A *firm* should consider allocating responsibility for the management of the relationship between the *firm* and its *IGC* to a person at the *firm* holding an ~~FCA significant influence function~~ or a designated senior management function.

...

...

## Annex I

## Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1A CASS firm classification and operational oversight**

...

**1A.3 Responsibility for CASS operational oversight**

1A.3.1 R ...

- (2) ~~A CASS small firm that is not an SMCR firm must make the allocation in (1) to a director or senior manager who is approved to perform a significant influence function for that firm. [deleted]~~

1A.3.1-A G The material in CASS 1A.3.1BG about how CASS 1A.3 fits into the FCA senior managers and certification regime for SMCR firms also applies to a CASS small firm that is an SMCR firm and the function in CASS 1A.3.1R. However:-

- (1) ~~the function in CASS 1A.3.1R is not a separate FCA certification function; and~~
- (2) ~~the person performing that function will not necessarily be subject to the employee certification regime described in SYSC 27 (Senior managers and certification regime: Certification regime).~~

...

The ~~approved persons~~ senior managers regime and the certification regime

- 1A.3.1B G (1) (a) ~~CASS 1A.3.1AR describes the FCA controlled function known as the CASS operational oversight function (CF10a). The table of FCA controlled functions in SUP 10A.4.4R together with SUP 10A.7.9R specify the CASS operational oversight function as an FCA required function for a firm to which CASS 1A.3.1AR applies. This paragraph CASS 1A.3.1BG describes how CASS 1A.3.1AR applies to SMCR firms.~~
- (b) ~~The CASS operational oversight function does not apply to an SMCR firm. For an SMCR firm, the~~ The function in CASS 1A.3.1AR is not a separate controlled function and performing that function does not require approval as an

*approved person. Paragraphs (1A) to (4) describe how CASS 1A.3.1AR applies to SMCR firms.*

...

...

- 1A.3.1C R ~~If, at the time a firm that is not an SMCR firm becomes a CASS medium firm or a CASS large firm in accordance with CASS 1A.2.12R(1) or CASS 1A.2.12 R(2), the firm is not able to comply with CASS 1A.3.1AR because it has no director or senior manager who is an approved person in respect of the CASS operational oversight function, the firm must:~~
- ~~(1) take the necessary steps to ensure that it complies with CASS 1A.3.1AR as soon as practicable, which must at least include submitting an application for a candidate in respect of the CASS operational oversight function within 30 business days of the firm becoming a CASS medium firm or a CASS large firm; and~~
  - ~~(2) until such time as it is able to comply with CASS 1A.3.1AR, allocate to a director or senior manager performing a senior management function responsibility for:~~
    - ~~(a) oversight of the firm's operational compliance with CASS;~~
    - ~~(b) reporting to the firm's governing body in respect of that oversight; and~~
    - ~~(c) completing and submitting the CMAR to the FCA in accordance with SUP 16.14. [deleted]~~
- 1A.3.1D G (1) ~~CASS 1A.3.1CR provides a grace period for a firm that is not an SMCR firm to apply for someone to be approved to perform the CASS operational oversight function.~~
- ~~(2) There is no equivalent to CASS 1A.3.1CR for an SMCR firm, because a person does not need specific FCA approval before carrying out the function. This is explained in (3) to (5), below.~~
  - ~~(3) As explained in CASS 1A.3.1BG(2), the function in CASS 1A.3.1AR is not, by itself, a controlled function.~~
  - ~~(4) Therefore, if an approved person is to perform the function for a an SMCR firm, it can be allocated to any director or senior manager who is already an approved person who is suitable to carry it out.~~
  - ~~(5) If the function is to be carried out by a certification employee:~~
    - ~~(a) FCA approval is not needed because performance of a role that falls into the certification regime does not require FCA approval;~~

- (b) ~~the firm should:~~
- (i) ~~either issue them with a certificate under SYSC 27 (Senior managers and certification regime: Certification regime) before the firm becomes a CASS medium firm or a CASS large firm; or~~
  - (ii) ~~give the function to a suitable approved person pending issue of the certificate. [deleted]~~

...

1A.3.3 R (1) Subject to (2), a *firm* must make and retain an appropriate record of the *person* to whom responsibility is allocated in accordance with CASS 1A.3.1R~~7~~ or CASS 1A.3.1AR or CASS 1A.3.1CR(2).

...

...

## 11 Debt management client money chapter

...

### 11.3 Responsibility for CASS operational oversight

CASS small debt management firm other than a not-for-profit debt advice body

11.3.1 R ...

- (2) ~~A firm that is not an SMCR firm must make the allocation in (1) to a director or senior manager approved to perform a significant influence function in relation to that firm. [deleted]~~

...

CASS small debt management firm that is a not-for-profit debt advice body

11.3.2 R ...

- 11.3.2A G (1) CASS 11.3.3G(5) to (11) do not apply to a CASS small debt management firm that is a not-for-profit debt advice body. This is because neither SYSC 24 (Senior managers and certification regime: Allocation of prescribed responsibilities) nor SYSC 26 (Senior managers and certification regime: Overall and local responsibility) apply to it.
- (2) It will not have any SMF managers as no designated senior management functions apply to it.
- (3) The function in CASS 11.3.2R is not a separate FCA certification function and the person performing that function will not necessarily

be subject to the employee certification regime described in SYSC 27 (Senior managers and certification regime: Certification Regime).

CASS large debt management firms firm: the CASS operational oversight function (CF10a)

- 11.3.3 G (1) ~~CASS 11.3.4R describes the FCA controlled function known as the CASS operational and oversight function (CF10a) in relation to CASS large debt management firms, including not-for-profit debt advice bodies. [deleted]~~
- (2) As a consequence of CASS 11.3.4R (in conjunction with SUP 10A.4.1R and SUP 10A.7.10R), in a CASS large debt management firm (including a not-for-profit debit advice body fitting into that category) the function described in CASS 11.3.4R is required to be discharged by a director or senior manager.
- (3) In the case of a firm that is not an SMCR firm, the director or senior manager in (2) should be an approved person under the approved persons regime provided for in SUP 10A (FCA Approved Persons).
- (4) However, the CASS operational oversight function does not apply to an SMCR firm. [deleted]
- ...
- ...
- 11.3.5 R ~~If, at the time a CASS debt management firm that is not an SMCR firm becomes a CASS large debt management firm in accordance with CASS 11.2.8R, the firm is not able to comply with CASS 11.3.4R because it has no director or senior manager who is an approved person in respect of the CASS operational oversight function, the firm must:~~
- (1) take the necessary steps to ensure that it complies with CASS 11.3.4R as soon as practicable, which must at least include submitting an application for a candidate in respect of the CASS operational oversight function within 30 business days of the firm becoming a CASS large debt management firm; and
- (2) until such time as it is able to comply with CASS 11.3.4R, allocate to a director or senior manager performing a significant influence function responsibility for:
- (a) oversight of the firm's operational compliance with CASS;
- (b) reporting to the firm's governing body in respect of that oversight; and
- (c) completing and submitting the CMAR to the FCA in accordance with SUP 16.14. [deleted]

- 11.3.5A G
- (1) ~~CASS 11.3.5R provides a grace period for a *firm* that is not an *SMCR firm* to apply for someone to be approved to perform the *CASS operational oversight function*.~~
  - (2) ~~There is no equivalent to *CASS 11.3.5R* for an *SMCR firm*, because a *person* does not need specific *FCA* approval before carrying out the function. This is explained in (3) to (5), below.~~
  - (3) ~~As explained in *CASS 11.3.3G*, the function in *CASS 11.3.5R* is not, by itself, a *controlled function*.~~
  - (4) ~~Therefore, if an *approved person* is to perform the function for an *SMCR firm*, it can be allocated to any *director* or *senior manager* who is already an *approved person* who is suitable to carry it out.~~
  - (5) ~~If the function is to be carried out by a *certification employee*:~~
    - (a) ~~*FCA* approval is not needed because performance of a role that falls into the certification regime does not require *FCA* approval;~~
    - (b) ~~the *firm* should:~~
      - (i) ~~either issue them with a certificate under *SYSC 27* (Senior managers and certification regime: Certification regime) before the *firm* becomes a *CASS large debt management firm*; or~~
      - (ii) ~~give the function to a suitable *approved person* pending issue of the certificate. [deleted]~~

...



## Annex J

### Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

**Part 1: Comes into force [ ] 20[ ]** [about six months before main commencement date for solo-regulated firms]

After SUP TP 11 (Bank of England and Financial Services Act 2016: Approved persons in insurers) insert a new SUP TP 12. The text is not underlined.

#### **TP 12 Bank of England and Financial Services Act 2016: Approved persons in solo-regulated firms**

##### **12.1 Application and purpose**

- 12.1.1 R (1) *SUP* TP 12 applies to **solo-regulated SMCR firms**.
- (2) *SUP* TP 12.15 applies to every *firm*.
- 12.1.2 G (1) *SUP* TP 12 has transitional provisions relating to the changes to the *approved persons* regime made by Part 2 of the Bank of England and Financial Services Act 2016 and the Individual Accountability (FCA-Authorised Firms) Instrument 2018.
- (2) In particular, it has procedures for converting existing approvals for the performance of *controlled functions* into approvals for the corresponding *designated senior management functions*.
- 12.1.3 G (1) The main time period for which *SUP* TP 12 operates is [the year in which the main commencement date for solo-regulated firms falls].
- (2) There are transitional provisions that can apply beyond that period. They are based on events occurring during that period.
- 12.1.4 G Most of *SUP* TP 12 relates *SUP* 10C.
- 12.1.5 G *SUP* TP 12.22 has a glossary of terms used in *SUP* TP 12 which have meanings that only apply in *SUP* TP 12. These terms appear in bold type in *SUP* TP 12.

##### **12.2 Conversion of existing approvals**

- 12.2.1 R If the conditions set out in *SUP* TP 12.2.2R are met, a **pre-implementation approval** in relation to a particular *approved person* (AP) and a particular **solo-regulated SMCR firm** (F) has effect on and after the **commencement date** as if it had been given in relation to the *FCA-designated senior management function* or *FCA-designated senior management functions* specified in *SUP* TP 12.2.2R(2) and (3).
- 12.2.2 R Those conditions are:
- (1) the **pre-implementation approval** is in effect in relation to F:
    - (a) (where *SUP* TP 12.2.10R applies this condition) at the **firm specific date**; and
    - (b) immediately before the **commencement date**;
  - (2) AP is performing an *FCA-designated senior management function* in relation to F on the **commencement date**;
  - (3) the **pre-implementation approval** in (1) is **potentially convertible** into approval for the *FCA-designated senior management function* in (2); and
  - (4) (where *SUP* TP 12.2.10R applies this condition) F has notified the *FCA*:
    - (a) between the **first notification date** and the **commencement date**;
    - (b) that it considers that the **pre-implementation approval** will be converted into approval for the *FCA-designated senior management function* in (2) under *SUP* TP 12.2.
- 12.2.3 R (1) A **pre-implementation approval** is **potentially convertible** into approval for an *FCA-designated senior management function* if a single row within the applicable part of the mapping table in *SUP* TP 12.2.5R contains both:
- (a) the **pre-implementation controlled function** for which that **pre-implementation approval** was given; and
  - (b) that *FCA-designated senior management function*.
- (2) An approval for a **pre-implementation controlled function** excluded from *SUP* TP 12 by *SUP* TP 12.4.2R is not **potentially convertible** into approval for any *FCA-designated senior management function*.
- (3) An approval for a **pre-implementation controlled function** is not **potentially convertible** into approval for an *FCA-designated senior management function* in relation to a *firm* if either that **pre-**

**implementation controlled function** or that *FCA-designated senior management function* does not apply to the *firm*.

- 12.2.4 R (1) Part One of the table in SUP TP 12.2.5R applies to a **core SMCR firm and a limited scope SMCR firm**.
- (2) Part Two of the table in SUP TP 12.2.5R applies to an **enhanced scope SMCR firm**.
- 12.2.5 R Mapping table: Potential conversion of approval for existing controlled functions into approval for designated senior management functions

<b>Part One (core SMCR firms and limited scope SMCR firms)</b>		
(1) <b>Pre-Implementation Controlled Function</b>	(2) <b>New FCA-designated senior management function</b>	(3) <b>Is notification required?</b>
Executive functions		
Director function	Executive director function	No
Chief executive function	(1) Chief executive function (2) Head of third country branch function (3) Executive director function (See Note 2)	No
Partner function	(1) Partner function (2) Executive director function	No
Director of unincorporated association function	Executive director function	No
Small friendly society function	Executive director function	No
Oversight functions		
Non-executive director function	Chair of the governing body function	Yes

Required functions		
Apportionment and oversight function	Limited scope function	No
Compliance oversight function	Compliance oversight function	No
Money laundering reporting function	Money laundering reporting function	No
Significant management function		
Significant management function	EEA branch senior manager function	No

<b>Part Two (enhanced scope SMCR firms)</b>	
<b>(1) Pre-Implementation Controlled Function</b>	<b>(2) New FCA-designated senior management function</b>
Executive functions	
Director function	(1) Executive director function (2) Chief finance officer function (3) Chief risk officer function (4) Head of internal audit function (5) Group entity senior manager function (6) Chief operations function
Chief executive function	(1) Chief executive function (2) Chief finance officer function (3) Chief risk officer function (4) Head of internal audit function
Partner function	(1) Partner function (2) Chief finance officer function (3) Chief risk officer function (4) Head of internal audit function
Director of unincorporated association function	(1) Executive director function (2) Chief finance officer function

	(3) Chief risk officer function (4) Head of internal audit function
Small friendly society function	(1) Executive director function (2) Chief finance officer function (3) Chief risk officer function (4) Head of internal audit function
Oversight functions	
Non-executive director function	(1) Chair of the governing body function (2) Chair of the risk committee function (3) Chair of the audit committee function (4) Chair of the remuneration committee function (5) Chair of the nomination committee function (6) Senior independent director function (7) Group entity senior manager function
Systems and controls	
Systems and controls function	(1) Chief finance officer function (2) Chief risk officer function (3) Head of internal audit function
Required functions	
Compliance oversight function	Compliance oversight function
Money laundering reporting function	Money laundering reporting function
CASS operational oversight function	Other overall responsibility function
Significant management function	
Significant management function	(1) Other overall responsibility function (2) Chief operations function

Notes for Parts One and Two of this table

(1) All references to a new FCA-designated senior management function are to *FCA-designated senior management functions* brought into force for the *firm* concerned by the Individual Accountability (FCA-Authorised Firms) Instrument 2018.

(2) The conversion from the chief executive function to the executive director function only applies to a *non-directive friendly society*.

- 12.2.6 G If a **pre-implementation controlled function** does not apply to a *firm* immediately before the **commencement date**, the applicable row of the table in *SUP* TP 12.2.5R does not apply to it either.
- 12.2.7 G (1) The general principle is that a **pre-implementation approval** cannot be converted to approval for an *FCA-designated senior management function* if that *FCA-designated senior management function* will not apply to the *firm* or to the particular *approved person* on the **commencement date**.
- (2) For example:
- (a) If none of the *FCA-designated senior management functions* in a row of the table in *SUP* TP 12.2.5R apply to a *firm* on the **commencement date**, that row does not apply to the *firm*.
- (b) An example of (a) is that the row applying to the limited scope *FCA-designated senior management function* only applies to **limited scope SMCR firms**.
- (c) The convertibility of the partner function to the executive director function in Part One of the table only applies to a **non-UK SMCR firm** that is a partnership.
- 12.2.8 G Another example of the principle in *SUP* TP 12.2.7G is that if:
- (1) the result of *SUP* TP 12.2 would be that an *approved person* is deemed to be approved to perform the *other overall responsibility function* or the *other local responsibility function*; and
- (2) that *approved person* is deemed by *SUP* TP 12.2 to be approved to perform any other *FCA-designated senior management function* for the same *firm*,
- then, for that *approved person* and that *firm*, the *other overall responsibility function* or the *other local responsibility function* (whichever is applicable) does not apply.
- 12.2.9 R (1) A notification to the *FCA* is not to be taken into account for the purposes of *SUP* TP 12.2.2R(4) so far as it concerns a particular

*approved person* if the *firm* does not include a **statement of responsibilities** about that *approved person* with the notification when required to do so by *SUP* TP 12.11.

- (2) A notification to the *FCA* is not to be taken into account for the purposes of *SUP* TP 12.2.2R(4) if the *firm* does not include a **management responsibilities map** with the notification when required to do so by *SUP* TP 12.12.

12.2.10 R *SUP* TP 12.2.2R(1)(a) and *SUP* TP 12.2.2R(4):

- (1) apply to an **enhanced scope SMCR firm**; and
- (2) do not apply to a **core SMCR firm** or a **limited scope SMCR firm** except in relation to a **pre-implementation approval** for which there is a notification obligation under *SUP* TP 12.5 or *SUP* TP 12.6.

12.2.11 G *SUP* TP 12.2.2R(4)(a) (together with *SUP* TP 12.5 and *SUP* TP 12.6) means that if a *firm* is required to submit a Form K:

- (1) a failure to submit a Form K before the **final notification date** is a breach of the requirements of *SUP* TP 12; but
- (2) despite that breach, the **pre-implementation approval** can still be converted into an approval for the applicable *FCA-designated senior management function* as long as it is received between the **first notification date** and the **commencement date**.

### 12.3 Effect of conversion

12.3.1 R (1) Where, immediately before the **commencement date**, a **pre-implementation approval** is subject to a suspension, condition or limitation imposed under section 66(3) of the *Act* (Disciplinary powers), that suspension, condition or limitation is to be treated as if it were imposed in respect of the **converted approval** from the beginning of the **commencement date**.

(2) This *rule* applies whether or not the *FCA* has given a *warning notice* or a *decision notice* under:

- (a) section 63 of the *Act* (Withdrawal of approval); or
- (b) section 63B of the *Act* (Procedure and right to refer to tribunal); or
- (c) section 67 of the *Act* (Disciplinary measures: procedure and right to refer to Tribunal).

12.3.2 R Anything done under section 63 of the *Act* (Withdrawal of approval) in respect of a **pre-implementation approval** before the **commencement date**

continues to have effect on and after that day in respect of the **converted approval**.

## 12.4 Lapse of existing approvals and special provisions about appointed representatives

- 12.4.1 R Subject to *SUP* TP 12.4.2R, any **pre-implementation approval** that is in effect immediately before the **commencement date** that is not converted under *SUP* TP 12.2 ceases to have effect as from the beginning of the **commencement date** in relation to the *controlled function* concerned.
- 12.4.2 R (1) *SUP* TP 12 does not apply to a **pre-implementation approval** that has effect under *SUP* 10A.1.15R to *SUP* 10A.1.16AR (appointed representatives).
- (2) However *SUP* TP 12 does apply to a **pre-implementation approval** in (1) for a *firm* that will fall under *SUP* 10C Annex 1 7.1R(4) (an *appointed representative* that has a *limited permission*) when it comes into force on the **commencement date**.
- (3) (2) does not apply to a **pre-implementation approval** for the *customer function*. *SUP* TP 12 does not apply to such a **pre-implementation approval**.
- 12.4.3 G An approval excluded from *SUP* TP 12 by *SUP* TP 12.4.2R continues in force and is not affected by *SUP* TP 12.
- 12.4.4 G (1) A *firm* does not have to submit a Form C for an *approved person* who had a **pre-implementation approval** to perform the *customer function* but ceases to perform that function because the *customer function* is (except in relation to *appointed representatives*) abolished after the **commencement date**.
- (2) A *firm* should however notify the *FCA* by Form C that a **pre-implementation approval** has not been converted into approval for an *FCA-designated senior management function* under *SUP* TP 12.2 because the *approved person* resigned or otherwise stopped performing the *FCA controlled function* before the **commencement date**.

## 12.5 Notification to the FCA: Initial notification

- 12.5.1 R (1) A *firm* must notify the *FCA* of:
- (a) each **pre-implementation approval** that it considers will be converted into approval for an *FCA-designated senior management function* under *SUP* TP 12.2 (assuming that the



*firm* complies with the applicable notification requirements in *SUP* TP 12);

- (b) the *approved person* in respect of whom that **pre-implementation approval** was given; and
  - (c) the *FCA-designated senior management function* referred to in (a).
- (2) A *firm* must make the notification in (1) between the **first notification date** and the **final notification date**.
- (3) This *rule* applies to:
- (a) an **enhanced scope SMCR firm**; and
  - (b) a **core SMCR firm** and a **limited scope SMCR firm** in relation to a **pre-implementation approval** to which column (3) of Part One of the table in *SUP* TP 12.2.5R applies the notification requirement in this *rule*.
- 12.5.2 G *SUP* TP 12.10 explains how the *firm* should make the notification.
- 12.5.3 G (1) This paragraph (*SUP* TP 12.5.3G) gives examples of things that a *firm* should not include in a notification under *SUP* TP 12.5.1R.
- (2) A *firm* should not include a **pre-implementation approval** for the *customer function*. This is because there is no need to notify a **pre-implementation approval** if it is not **potentially convertible** into any *FCA-designated senior management function*.
- (3) A *firm* should not include a **pre-implementation approval** if:
- (a) it is **potentially convertible** into an *FCA-designated senior management function*; but
  - (b) the *firm* considers that the *approved person* will not be performing that *FCA-designated senior management function* on the **commencement date**.
- (4) Therefore, a *firm* should not include an *approved person* who plans to resign before the **commencement date** if it is intended that they will have left the *firm* before then.
- (5) A *firm* should not include a **pre-implementation approval** if *SUP* TP 12.4.2R says that *SUP* TP 12 does not apply to it.
- 12.5.4 G If the *firm* considers that some of an *approved person's pre-implementation approvals* will be converted and some will not be, the *firm's* notification should:
- (1) include the *approved person*; but

- (2) exclude the approvals that will not be converted.

## 12.6 Notification to the FCA: Revision of initial notice

- 12.6.1 R (1) This *rule* applies if, before the **commencement date**:
- (a) there is a change relating to information given in or accompanying a notification that the *firm* has previously made under *SUP* TP 12.5 (or a notification given under *SUP* TP 12.6); or
- (b) the *firm* giving the notice discovers that any part of that information is inaccurate.
- (2) Where circumstances described in (1) occur before the **final notification date**, the *firm* must submit a revision of the notice referred to in (1) to the *FCA* before the **final notification date**.
- (3) Where circumstances described in (1) occur between the **final notification date** and the **commencement date**, the *firm* must submit a revision of the notice referred to in (1) to the *FCA* before the **commencement date**.
- 12.6.2 G *SUP* TP 12.10 explains how the *firm* should make the revised notification.
- 12.6.3 G (1) This paragraph *SUP* TP 12.6.3G gives examples of when a *firm* should revise its *SUP* TP 12.5 notice under *SUP* TP 12.6.
- (2) A *firm* need not include in a notification under *SUP* TP 12.5 an *approved person* who plans to leave the *firm* before the **commencement date**. However that plan may change and as a result the *firm* may later conclude that the *approved person* will carry on with their job after the **commencement date**. If so, the *firm* should revise the notice.
- (3) If, after the notice to the *FCA*, the *FCA* grants an approval under section 59 of the *Act* (Approval for particular arrangements) to someone who did not have any such approval for the *firm* at the time of the notice, the *firm* should revise its notice by including that new *approved person* and that new **pre-implementation approval**.
- (4) If, after a *firm* has given the notice to the *FCA*, the *FCA* grants a new approval under section 59 of the *Act* to someone who already was an *approved person* for the *firm* when the *firm* gave the notice to the *FCA*, the *firm* should revise its notice by including that new **pre-implementation approval**.
- (5) If a *firm* includes an *approved person* in a notification under *SUP* TP 12.5 and the *firm* later concludes that that *person's* **pre-**

**implementation approval** will no longer qualify for conversion because that *person* will not be performing the relevant *FCA-designated senior management function* for the *firm* on the **commencement date**, the *firm* should revise its notice. Possible reasons for this include:

- (a) the *approved person* leaves the *firm*;
  - (b) the *approved person* tells the *firm* they are going to leave the *firm* before the **commencement date**; or
  - (c) the *approved person's* job changes so that it will no longer involve performing an *FCA-designated senior management function* on the **commencement date**.
- (6) There is no need to include information about the matters set out in *SUP* TP 12.5.3G.

- 12.6.4 G If a *firm* gives a notification to the *FCA* under *SUP* TP 12.5 about an *approved person* and that *approved person* later leaves the *firm* or gives up performing some of their **pre-implementation controlled functions** before the **commencement date**, the *firm* should notify the *FCA* using Form C or Form E under *SUP* 10A as well as a Form K under *SUP* TP 12.10.

## 12.7 In-flight applications: Conversion

- 12.7.1 R (1) A **pre-implementation application** by a *firm* that has not been determined or withdrawn by the **commencement date** is to be treated, on and after the **commencement date**, as if it had been made for the **corresponding FCA-designated senior management function** or *FCA-designated senior management functions* (if there are any).
- (2) If a *firm* is required to notify a **pre-implementation application** to the *FCA* under *SUP* TP 12.8R, (1) only applies to a **corresponding FCA-designated senior management function** if the *firm* has included in that notification:
- (a) that **pre-implementation application**; and
  - (b) that *FCA-designated senior management function*.
- 12.7.2 R An *FCA-designated senior management function* “**corresponds**” to a **pre-implementation controlled function** if approval for the latter is **potentially convertible** into approval for the former and “**corresponding**” must be interpreted accordingly.
- 12.7.3 R *SUP* TP 12.7.1R is subject to any amendment the *firm* may make to the application after the **first notification date** and before the **commencement date** to specify that on the **commencement date**:

- (1) the **pre-implementation application** is to lapse; or
- (2) the **pre-implementation application** is to be treated as only being for some of the *FCA-designated senior management functions*.
- 12.7.4 G *SUP* TP 12.8.3G explains what *FCA-designated senior management functions* are covered by *SUP* TP 12.7.1R(2).
- 12.7.5 G (1) *SUP* TP 12.7.3R is not the only way a *firm* may change the effect of *SUP* TP 12.7.
- (2) After the **commencement date** a *firm* is free to amend its application in accordance with the *Act* and the *FCA Handbook*.
- (3) Before the **commencement date**, a *firm* is free to amend its application in accordance with the *Act* and the *FCA Handbook* by changing the **pre-implementation controlled function** for which it is applying. That will affect the **corresponding FCA-designated senior management function**. If the *firm* amends its application in this way it should notify the *FCA* under *SUP* TP 12.8 as well as under *SUP* 10A.
- 12.7.6 R Subject to *SUP* TP 12.7.7R, a **pre-implementation application** lapses on the **commencement date** unless it is continued in force by *SUP* TP 12.7.
- 12.7.7 R *SUP* TP 12 does not apply to a **pre-implementation application** if the **pre-implementation approval** that would result if it was granted would be excluded from *SUP* TP 12 by *SUP* TP 12.4.2R.

## 12.8 In-flight applications: Notification requirements

- 12.8.1 R A *firm* must, between the **first notification date** and the **final notification date**, notify the *FCA* of every **pre-implementation application** if:
- (1) it has not been determined or withdrawn at the time of the notification;
- (2) it is not excluded under *SUP* TP 12.7.7R; and
- (3) the *firm* would be required to notify the *FCA* under *SUP* TP 12.5 if that application had been granted and the approval was in effect immediately before the date of the notification in *SUP* TP 12.8.1R.
- 12.8.2 R The information about a **pre-implementation application** that the notification must contain is the information that the *firm* would be required to give the *FCA* in a notification under *SUP* TP 12.5 if:
- (1) that **pre-implementation application** had been granted; and

- (2) the resulting approval was in effect immediately before the date of the notification in *SUP* TP 12.8.1R.

12.8.3 G *SUP* TP 12.8.1R and *SUP* TP 12.8.2R mean:

- (1) In general only an **enhanced scope SMCR firm** needs to make the notification.
- (2) A **core SMCR firm** and a **limited scope firm** should not make a notification except in relation to an application to perform the non-executive director **pre-implementation controlled function**.
- (3) The information to be notified to the *FCA* about a particular **pre-implementation application** includes each *FCA-designated senior management function* that meets the following conditions:
- (a) approval for the **pre-implementation controlled function** for which the **pre-implementation application** is being made is **potentially convertible** into approval for that *FCA-designated senior management function*; and
- (b) the *firm* considers that the *approved person* concerned will be performing that *FCA-designated senior management function* on the **commencement date** if the **pre-implementation application** is approved before then.
- (4) A *firm* should not notify the *FCA* about a particular **pre-implementation application** if the *firm* considers that, if the application were approved before the **commencement date**, the *approved person* will not be performing on the **commencement date** any of the *FCA-designated senior management functions* into which the applicable **pre-implementation approval** would be **potentially convertible**. This might be because the *firm* intends that the *candidate* will only be in post for a short time.

12.8.4 R (1) This *rule* applies if, before the **commencement date**:

- (a) a *firm* makes a **pre-implementation application** after the initial notice under *SUP* TP 12.8.1R; and
- (b) the *firm* would be required to notify the *FCA* under *SUP* TP 12.6 if that application had been granted and the approval was in effect immediately before the date of the notification under *SUP* TP 12.8.4R.
- (2) This *rule* also applies if, before the **commencement date**:
- (a) there is any other change relating to information given in or accompanying the initial notice under *SUP* TP 12.8.1R (or a notification given under *SUP* TP 12.8.4R), or

- (b) the *firm* discovers that any part of that information is inaccurate.
  - (3) Where circumstances described in (1) or (2) occur before the **final notification date**, the *firm* must submit a revision of the notice referred to in (1) or (2) to the *FCA* before the **final notification date**.
  - (4) Where circumstances described in (1) or (2) occur between the **final notification date** and the **commencement date**, the *firm* must submit a revision of the notice referred to in (1) or (2) to the *FCA* before the **commencement date**.
- 12.8.5 G *SUP* TP 12.10 explains how the *firm* should make the notification.
- 12.8.6 G If a *firm* notifies the *FCA* under *SUP* TP 12.8 of a **pre-implementation application** and that application is granted or refused before the **commencement date**, the *firm* should revise its notification under *SUP* TP 12.8.4R and, if applicable, *SUP* TP 12.6.

## 12.9 In-flight applications: Supplemental material

- 12.9.1 R (1) This *rule* applies if, in relation to a **pre-implementation application** continued in effect after the **commencement date** under *SUP* TP 12.7, the *FCA* has before the **commencement date**:
- (a) imposed a requirement under section 60 of the *Act* (Application for approval);
  - (b) given a *warning notice* under section 62(2) of the *Act* (Applications for approval: procedure and right to refer to tribunal) or a *decision notice* under section 62(3) of the *Act* to the interested parties referred to in section 62(5); or
  - (c) taken any step in connection with giving a *warning notice* or *decision notice* under section 62.
- (2) The requirement, notice or step in (1) is to be treated, on and after the **commencement date**, as having been imposed, given or taken in relation to the application as affected by *SUP* TP 12.7.

## 12.10 Procedure for notification

- 12.10.1 R A *firm* must only make a single notification under *SUP* TP 12.5 and *SUP* TP 12.8.1R and must do so on the same notification form.
- 12.10.2 R A *firm* must make a notification under *SUP* TP 12.5, *SUP* TP 12.6 or *SUP* TP 12.8 by completing Form K (*SUP* TP 12.23.1R).

- 12.10.3 R A *firm* must make a notification or submit a *document* to the *FCA* under *SUP* TP 12 in accordance with *SUP* 10C.15.11R(1) and (3) (Method of submission: electronic submission).
- 12.10.4 R (1) A *firm* making a notification under *SUP* TP 12.10.3R in accordance with *SUP* 10C.15.11R(1) must use the version of Form K made available on the electronic system referred to in *SUP* 10C.15.11R, which is based on the version in *SUP* TP 12.23.1R.
- (2) A *firm* making a notification under *SUP* TP 12.10.3R in accordance with *SUP* 10C.15.11R(3) and *SUP* 10C.15.14R must use the version of Form K in *SUP* TP 12.23.1R.
- 12.10.5 G If a *firm* discovers after the **commencement date** that any information it has given under *SUP* TP 12 is inaccurate it should notify the *FCA* as described in *SUP* 15.6 (Inaccurate, false or misleading information). If *SUP* TP 12.17.4R applies, the *firm* should notify the *FCA* under that *rule* instead.

## 12.11 Statements of responsibilities

- 12.11.1 R A *firm* must, in relation to each **transitioned SMF manager**, prepare a statement setting out the aspects of the affairs of the *firm* which it is intended that they will be responsible for managing in performing their **converted designated senior management function**.
- 12.11.2 R A *firm* must have prepared the statement in *SUP* TP 12.11.1R by the **commencement date** (unless it must prepare it earlier under *SUP* TP 12.11.4R).
- 12.11.3 G A *firm* should not send that statement to the *FCA* unless it is required to do so by *SUP* TP 12.11.4R or *SUP* TP 12.11.5R.
- 12.11.4 R A notification to the *FCA* under *SUP* TP 12.5, *SUP* TP 12.6 or *SUP* TP 12.8 by an **enhanced scope SMCR firm** about an *approved person* or *candidate* must be accompanied by a **statement of responsibilities** about that *person*.
- 12.11.5 R A **core SMCR firm** and a **limited scope firm** must, within five *business days* after the **commencement date**, give the *FCA* a **statement of responsibilities** for each *candidate* who is the subject of a **pre-implementation application** by the *firm* that has been converted into an application for approval for the performance of an *FCA-designated senior management function* under *SUP* TP 12.7.
- 12.11.6 G A **statement of responsibilities** should comply with all the *rules* and *directions* in the *FCA Handbook* that will apply to *statements of responsibilities* prepared by the *firm* (see *SUP* TP 12.16).

## 12.12 Management responsibilities maps

- 12.12.1 R *SUP* TP 12.12 applies to an **enhanced scope SMCR firm** that will be required under *SYSC* 25 (Senior managers and certification regime: Management responsibilities maps and handover procedures and material) to have a *management responsibilities map* when that chapter comes into force on the **commencement date**.
- 12.12.2 R A notification to the *FCA* under *SUP* TP 12.10.1R must be accompanied by a **management responsibilities map**.
- 12.12.3 G A **management responsibilities map** should comply with all the *rules* and *directions* in the *FCA Handbook* that will apply to a *management responsibilities map* prepared by the *firm* (see *SUP* TP 12.16).

## 12.13 Supplemental material about statements of responsibilities and management responsibilities maps

- 12.13.1 R A **statement of responsibilities** and a **management responsibilities map** must be prepared as of the **commencement date**.
- 12.13.2 G (1) If there has been a change relating to a **statement of responsibilities** or a **management responsibilities map** submitted to the *FCA* under *SUP* TP 12, the *firm* should submit a revised version.
- (2) This is the effect of *SUP* TP 12.6 and *SUP* TP 12.8.4R.
- 12.13.3 G A *firm* should not assume that the *FCA* has reviewed a **statement of responsibilities** or a **management responsibilities map** submitted to it for completeness, quality or accuracy. It is the *firm's* responsibility to ensure that they have been prepared in accordance with the *FCA's rules* and the *Act*.

## 12.14 Criminal record checks and employment references

- 12.14.1 R *SUP* 10C.10.16R (Criminal record checks) does not apply to any **pre-implementation application** continued in effect by *SUP* TP 12.7.1R after the **commencement date**.
- 12.14.2 G *SUP* 10C.10.16R (Criminal record checks) applies to any application for approval made under *SUP* TP 12.15.
- 12.14.3 G *SYSC* TP 7.4.2R (Transitional provisions about regulatory references) has transitional provisions about regulatory references in relation to a **pre-implementation application** continued in effect by *SUP* TP 12.7.1R and applications for approval made under *SUP* TP 12.15.



## 12.15 Applications of approved persons to take effect from the commencement date

- 12.15.1 D (1) A *firm* may, before the **commencement date**, apply under section 60 of the *Act* (Applications for approval) for the *FCA* 's approval under section 59 of the *Act* (Approval for particular arrangements) for the performance of an *FCA-designated senior management function* which comes into effect (as respects the *firm*) on the **commencement date**.
- (2) Any application may only be made after the **first notification date**.
- (3) Any such application is made on the basis that it is treated as being made on the **commencement date**.
- (4) The application must be made using the version of Form A or Form E applicable from the **commencement date** and in accordance with the other requirements to be in effect on that date.
- 12.15.2 G The rest of *SUP* TP 12 will not apply to an application under *SUP* TP 12.15. In particular, it is not a **pre-implementation application** and the application should not be included in the *firm* 's Form K.
- 12.15.3 G Any such application should be accompanied by a *statement of responsibilities* and, if *SYSC* 25 (Senior managers and certification regime: Management responsibilities maps and handover procedures and material) will apply, a *management responsibilities map*.
- 12.15.4 G A *firm* does not have to make an application under *SUP* TP 12.15. It can make an application for an existing *controlled function* before the **commencement date** under the *rules* and directions in force at the time of the application. *SUP* TP 12 will apply to such applications.

## 12.16 Application of ongoing requirements to converted approvals and conversion documents

- 12.16.1 R (1) The *rules* of the *FCA Handbook* apply to a **converted approval**, as they do to approvals granted after the **commencement date**.
- (2) The *rules* of the *FCA Handbook* apply to a **pre-implementation application** that is continued in force under *SUP* TP 12 after the **commencement date** as they do to applications made after the **commencement date**.
- (3) This paragraph is subject to the other provisions of *SUP* TP 12.

- 12.16.2 R (1) The *rules* of the *FCA Handbook* apply to a **statement of responsibilities** (including one revised under (*SUP* TP 12.16.4R)) as they do to a *statement of responsibilities*.
- (2) (2) applies even if the *firm* is not required to submit the **statement of responsibilities** to the *FCA* under *SUP* TP 12.12.
- 12.16.3 R A **management responsibilities map** submitted to the *FCA* under *SUP* TP 12.12 must comply with all the *rules* and directions in the *FCA Handbook* that will apply to the *firm's management responsibilities map* as from the **commencement date**.
- 12.16.4 R (1) If, since the **commencement date**, there has been any significant change in the aspects of a *firm's* affairs which a **transitioned SMF manager** is responsible for managing in performing their **converted designated senior management function**, the *firm* must provide the *FCA* with a revised **statement of responsibilities**.
- (2) The requirements of the *FCA Handbook* about an obligation under section 62A of the *Act* (Changes in responsibilities of senior managers) apply to an obligation under (1).
- 12.16.5 D *SUP* TP 12.16.1R to *SUP* TP 12.16.4R apply to directions in *SUP* 10C in the same way as they do to *rules*.
- 12.16.6 G The table in *SUP* TP 12.16.7G gives examples of how *SUP* 10C and other parts of the *FCA Handbook* apply to **converted approvals**.
- 12.16.7 G Table: Examples of how ongoing requirements apply to converted approvals

Requirement in Handbook	Summary of the requirement in column (1)	How SUP 10C applies
Revised statements of responsibilities		
<i>SUP</i> 10C.11.7D	Submission of revised <i>statement of responsibilities</i>	<i>SUP</i> TP 12.16.4R(1) mirrors section 62A of the <i>Act</i> (Changes in responsibilities of senior managers). This means that if after the <b>commencement date</b> there has been a significant change in a <b>transitioned SMF manager's</b> responsibilities in relation to their <b>converted designated senior management functions</b> , the <i>firm</i> should submit a revised <b>statement of responsibilities</b> . It should also submit a Form J unless <i>SUP</i> 10C.11 says that it is not required.

		The question of whether there has been a significant change should be decided in the same way as under section 62A of the <i>Act</i> .
Varying an approval		
<i>SUP</i> 10C.11.10D	<i>Statements of responsibilities</i>	The powers and requirements in the <i>Act</i> and in <i>SUP</i> 10C about variation of approvals at the request of a <i>firm</i> and at the initiative of the <i>FCA</i> apply to <b>converted approvals</b> .  If a <b>transitioned SMF manager</b> ceases to perform a <i>designated senior management function</i> but continues to perform a <b>converted designated senior management function</b> , the <i>firm</i> should submit a revised statement of responsibilities <i>document</i> under <i>SUP</i> 10C.11.12R.
<i>SUP</i> 10C.11.12R	Ceasing to carry on some functions	
<i>SUP</i> 10C.13	Other material about variations	
Single statement of responsibilities document		
<i>SUP</i> 10C.11.13D	One <i>statement of responsibilities</i> for each <i>SMF manager</i> for each <i>firm</i>	Applies to <b>statements of responsibilities</b> in the same way as it applies to <i>statements of responsibilities</i> . For example:  (1) If after the <b>commencement date</b> a <i>firm</i> applies for the <i>FCA</i> 's approval for a <b>transitioned SMF manager</b> to perform another <i>FCA-designated senior management function</i> , the <i>statement of responsibilities</i> prepared for that application should be combined with the <b>statement of responsibilities</b> required by <i>SUP</i> TP 11 into a single <i>document</i> .  (2) If:  (a) after the <b>commencement date</b> a <b>transitioned SMF manager</b> is approved by the <i>FCA</i> to perform another <i>FCA-designated senior management function</i> ; and  (b) later there is a significant change in the <b>transitioned SMF manager's</b> responsibilities;

		the <i>firm</i> should notify the <i>FCA</i> and submit a single revised statement of responsibilities <i>document</i> , whether the change relates to the <b>converted designated senior management function</b> or to the additional <i>FCA-designated senior management function</i> .
Complete set of statements of responsibilities		
<i>SUP</i> 10C.11.20R	Complete set of current <i>statements of responsibilities</i>	Applies to <b>statements of responsibilities</b> in the same way as it does to <i>statements of responsibilities</i> .
Ceasing to carry on functions		
<i>SUP</i> 10C.11.12R	<i>Statements of responsibilities</i> to be included in notification	Applies to ceasing to carry on a <b>converted designated senior management function</b> after the <b>commencement date</b> .
<i>SUP</i> 10C.14.5R	Notification of ceasing to perform the function	
<i>SUP</i> 10C.14.7R	Qualified Form C	
Form D		
<i>SUP</i> 10C.14.13R	Changes to details	Applies to a <b>transitioned SMF manager</b> and to changes of any details relating to the <b>converted designated senior management function</b> . <i>SUP</i> 10C.14.15R says that a <i>firm</i> should not submit a Form D to the <i>FCA</i> if the <i>firm</i> is required to notify the <i>FCA</i> under section 62A of the <i>Act</i> (Changes in responsibilities of senior managers) or <i>SUP</i> 10C.11 (Statements of responsibilities). This also applies if the <i>firm</i> is required to notify changes under <i>SUP</i> TP 12.16.4R.  The Form D requirements also apply to a <i>candidate</i> whose application is continued in force by <i>SUP</i> TP 12.
<i>SUP</i> 10C.14.15R	Changes to arrangements	
<i>SUP</i> 10C.14.18R	Fitness	

		Before the <b>commencement date</b> , the existing requirements of <i>SUP</i> 10A apply to changes in a <i>candidate's</i> fitness.
Notifications under the Act		
<i>SUP</i> 10C.14.22R	Notifications under the <i>Act</i>	Applies to notification about a <b>transitioned SMF manager</b> .
General		
Requirements referring to a <i>current approved person approval</i>		Applies to a <b>converted approval</b> .
Requirements referring to a <i>current approved person approval</i> held within the last six <i>months</i>		These requirements apply to an approval for a <i>controlled function</i> abolished after the <b>commencement date</b> and to an approval that ceased to have effect under <i>SUP</i> TP 12 for some other reason.  These requirements also apply to an approval given up within the last six <i>months</i> before the <b>commencement date</b> even though the <i>controlled function</i> ceases to exist after the <b>commencement date</b> .
<i>FCA-prescribed senior management responsibility</i> (a)	Responsibility for a <i>firm's</i> performance of its obligations under the senior managers regime	Includes compliance with the requirements about <b>statements of responsibilities</b>
<i>SYSC</i> 25	Preparation of <i>management responsibilities maps</i>	A <i>management responsibilities map</i> should include a <b>transitioned SMF manager</b> and their <b>converted designated senior management functions</b>

## 12.17 Making sure that the Financial Services Register is accurate

Existing notification requirements

- 12.17.1 R (1) If before the **commencement date** a *firm* is required to notify the *FCA* using Form C or Form D or under *SUP* 10A.14.10R, that obligation continues to apply after the **commencement date** if the *firm* has not complied with that obligation before then.
- (2) (1) applies whether the deadline for reporting expires before or after the **commencement date**.
- (3) (1) does not apply to the *customer function* (unless the *customer function* continues to apply after the **commencement date** under *SUP* TP 12.4.2R) if the deadline for reporting expires after the **commencement date**.

Notifying who will not be converted

- 12.17.2 R (1) This *rule* applies to a **core SMCR firm** and a **limited scope firm** (F) in relation to a particular *approved person* (AP) if:
- (a) F has **pre-implementation approval** for the performance by AP of a **pre-implementation controlled function**;
- (b) that **pre-implementation approval** is **potentially convertible** into an *FCA-designated senior management function*; and
- (c) F believes that that **pre-implementation approval** will not be converted into approval for the performance of that *FCA-designated senior management function*.
- (2) If F is not already required to notify the *FCA* of that fact, it must notify the *FCA* of that fact using Form C in accordance with *SUP* 10A before:
- (a) the **final notification date**; or
- (b) (if the situation in (1) first arises after the **final notification date**) the **commencement date**.
- 12.17.3 G (1) The most likely reason for the situation *SUP* TP 12.17.2R to arise is that, before the **commencement date**, AP resigns or gives up their *controlled function* or plans to do so.
- (2) In most cases F will already be required to notify the *FCA*. If so, *SUP* TP 12.17.2R will not apply.
- (3) An example of circumstances in which *SUP* TP 12.17.2R will apply is if:
- (a) AP is going to remain in post after the **commencement date**; but

- (b) their job does not come within the definition of the *FCA-designated senior management function* in SUP TP 12.17.2R even though their job comes within the **pre-implementation controlled function**.

12.17.4 G SUP TP 12.17.2R does not apply to an **enhanced scope SMCR firm**. The FCA will rely on its Form K instead.

#### Checking the Register

- 12.17.5 R A *firm* must, in the *month* beginning five *business days* after the **commencement date**, check whether the *Financial Services Register*:
- (1) correctly records all the *firm's SMF managers*; and
  - (2) correctly records each *FCA-designated senior management function* for the performance of which by the *SMF manager* the *firm* has approval;
  - (3) includes everyone performing an *FCA-designated senior management function* for the performance of which the *firm* should have obtained approval; and
  - (4) includes all the *FCA-designated senior management functions* for which the *firm* should have obtained approval in relation to *persons* in (3).
- 12.17.6 R (1) If:
- (a) the *Financial Services Register* does not correctly do all the things in SUP TP 12.17.5R; and
  - (b) the *firm* is not already required to notify the FCA of the facts giving rise to (1)(a) or to apply for the necessary approvals under section 59 of the *Act* (Approval for particular arrangements)
- the *firm* must (by the end of the one *month* period in SUP TP 12.17.5R) notify the FCA of that fact using the applicable form in SUP 10C.
- (2) The applicable form in (1) is, in relation to a particular *person* (AP) and *firm*, whichever one or more of the following forms in SUP 10C applies:
    - (a) Form A (short form) where AP is not, but should be, included in the *Financial Services Register* or where the *Financial Services Register* omits some of AP's *FCA-designated senior management functions* for which the *firm* has approval; or

- (b) Form C where AP is, but should not be, included in the *Financial Services Register* or where the *Financial Services Register* shows an approval for AP to perform an *FCA-designated senior management function* that the *firm* does not have; or
  - (c) Form E where both (1) and (2) apply; or
  - (d) Form D in any other case.
- 12.17.7 G The requirement to check the *Financial Services Register* is particularly important in a case where the *firm* is not under a notification obligation in *SUP TP 12.5* and *SUP TP 12.6* because:
- (1) the *FCA* will update the *Financial Services Register* based on the information it has; but
  - (2) the *FCA* may not have sufficient information to tell whether all the conversion conditions in *SUP TP 12.2.2R* have been met.
- 12.17.8 G (1) In practice it is unlikely that *SUP TP 12.17.6R* will normally apply because the *firm* will already be required to notify the *FCA* of the matter or apply for approval. For example:
- (a) if the *Financial Services Register* does not include a *person* performing an *FCA-designated senior management function* because the *firm* has not yet applied for approval, the *firm* should apply for approval using Form A (long or short) or Form E as soon as possible;
  - (b) if the *Financial Services Register* includes a *person* who left the *firm* before the **commencement date** or who stopped performing their **pre-implementation controlled function** before then, the *firm* should report that using Form C (see *SUP TP 12.17.1R*);
  - (c) if the **pre-implementation controlled function** and the corresponding *designated senior management function* are so different that approval for the former is not converted into approval for the latter, a **non-notifying firm** should report that under *SUP TP 12.17.2R*.
- (2) *SUP TP 12.17.6R* may apply for example if the *firm* has made all the notifications (if any) required by *SUP TP 12* and other parts of the *FCA Handbook* but:
- (a) the *Financial Services Register* does not include one of the *firm's approved persons* even though their **pre-implementation controlled function** was converted under *SUP TP 12*; or



- (b) the *Financial Services Register* includes one of the *firm's approved persons* even though none of their **pre-implementation controlled functions** were converted under *SUP TP 12*.

## 12.18 The 12-week rule

- 12.18.1 G (1) *SUP 10C.3.13R* (The 12-week rule) allows a *firm* to appoint someone (P) to perform a function which would normally be an *FCA-designated senior management function* without needing to apply for the *FCA's* approval under section 59 of the *Act* (Approval for particular arrangements) where P is filling in for someone who is absent unexpectedly or temporarily. There is a maximum period for which P's appointment can last.
- (2) When calculating the maximum time period in (1), the *firm* need not take into account any time spent by P before the **commencement date** performing what will become the *FCA-designated senior management function* in (1).
- 12.18.2 G (1) *SUP 10C.3.13R* only applies where P (as referred to in *SUP TP 12.18.1G*) is providing cover for an *SMF manager* whose absence is temporary or reasonably unforeseen.
- (2) *SUP 10C.3.13R* may still apply if the absence referred to in (1) began before the **commencement date**.
- 12.18.3 G *SUP TP 12.18.1G* and *SUP TP 12.18.2G* may apply even if:
- (1) before the **commencement date** P was taking advantage of *SUP 10A.5.6R* (the equivalent of *SUP 10C.3.13R* under *SUP 10A*); and
- (2) approval for the *controlled function* disapplied by *SUP 10A.5.6R* is **potentially convertible** into approval for the *FCA-designated senior management function* in *SUP TP 12.18.1G* and *SUP TP 12.18.2G*.

## 12.19 Application for permission

- 12.19.1 D (1) This direction applies to a **pre-implementation application** that is made by an **authorisation applicant**:
- (a) between the **first notification date** and the **commencement date**; or
- (b) before the **first notification date** if it is still outstanding on the **first notification date**.

- (2) A **pre-implementation application** in (1)(a) must comply with the requirements (if any) of *SUP* TP 12 that apply to a **pre-implementation application** by a *firm*:
- (a) of the type that the **authorisation applicant** will be if the **authorisation application** is granted or otherwise succeeds; and
  - (b) for an approval by the *FCA* for the performance of the same **pre-implementation controlled function**.
- (3) An **authorisation applicant** must, between the **first notification date** and the **final notification date**, revise any of its **pre-implementation applications** covered by (1)(b) to the extent necessary to meet the requirements in (2).
- 12.19.2 R *SUP* TP 12.7 and *SUP* TP 12.9 apply to a **pre-implementation application** in *SUP* TP 12.19.1D.
- 12.19.3 D *SUP* TP 12.15 applies to an **authorisation applicant**.

## 12.20 Prohibition orders

- 12.20.1 R The changes to the *FCA Handbook* made by the Individual Accountability (FCA-Authorised Firms) Instrument 2018 do not affect:
- (1) a *warning notice* or a *decision notice* under section 57 of the *Act* (Prohibition orders: procedure and right to refer to tribunal); or
  - (2) a *prohibition order*;
- which is given or made before the **commencement date**.

## 12.21 Reporting under *SUP* 15.11

- 12.21.1 R The first notification period under *SUP* 15.11.13R (Timing and form of notifications: conduct rules staff other than SMF managers):
- (1) starts on the **commencement date**; and
  - (2) ends on the last day of:
    - (a) (in the case of a *firm* falling within *SYSC* 23 Annex 1 5.7R (credit firms with limited permission)) the first financial reporting period referred to in *SUP* 15.11.13R(3)(a)(i) ending after the **commencement date**; or
    - (b) (for any other *firm*) the following August.

- 12.21.2 G *SUP* TP 12.21.1R(2)(a) applies however short the resulting reporting period may be.

## 12.22 Terms used in *SUP* TP 12

- 12.22.1 R The terms in the first column of the table in *SUP* TP 12.22.2R, where they appear in bold in *SUP* TP 12, have the meanings in the corresponding entry in column 2 for the purposes of *SUP* TP 12.
- 12.22.2 R Table: glossary of bespoke terms used in *SUP* TP 12

<b>Part One: General</b>	
<b>Defined term</b>	<b>Meaning</b>
<b>authorisation applicant</b>	an applicant for <i>Part 4A permission</i> , or another <i>person</i> seeking to carry on <i>regulated activities</i> as an <i>authorised person</i> .
<b>authorisation application</b>	the application or other process referred to in the definition of <b>authorisation applicant</b> .
<b>converted approval</b>	(in relation to a <b>pre-implementation approval</b> ) the approval for an <i>FCA-designated senior management function</i> which that <b>pre-implementation approval</b> becomes under <i>SUP</i> TP 12.2.1R.
<b>converted designated senior management function</b>	(in relation to a <b>transitioned SMF manager</b> ) the <i>FCA-designated senior management function</i> for which they are treated as having approval under <i>SUP</i> TP 12.2.1R
<b>core SMCR firm, enhanced scope SMCR firm, limited scope SMCR firm, non-UK SMCR firm</b>	have the meaning set out in the amendments to the <i>Glossary</i> to be made by the Individual Accountability (FCA-Authorised Firms) Instrument 2018). This is subject to <i>SUP</i> TP 12.22.3R.
<b>corresponding</b>	(in relation to an <i>FCA-designated senior management function</i> and a <b>pre-implementation controlled function</b> ) has the meaning in <i>SUP</i> TP 12.7.2R.
<b>firm specific date</b>	the later of the following:

	(1)	the date (if any) on which a <i>firm</i> makes the notification in <i>SUP</i> TP 12.10.1R; or
	(2)	(if the <i>firm</i> has updated a notification in (1) under <i>SUP</i> TP 12.6 or <i>SUP</i> TP 12.8.4R) the date that the most recent such updated notification was made to the <i>FCA</i> .
<b>management responsibilities map</b>		the <i>document</i> required to be produced under <i>SUP</i> TP 12.12, including under <i>SUP</i> TP 12.12 as applied by <i>SUP</i> TP 12.19.
<b>potentially convertible</b>		has the meaning in <i>SUP</i> TP 12.2.3R.
<b>pre-implementation application</b>		an application made under section 60 of the <i>Act</i> (Applications for approval) if the application is:
	(1)	for approval for the performance of a <b>pre-implementation controlled function</b> ; and
	(2)	received by the <i>FCA</i> before the <b>commencement date</b> .
<b>pre-implementation approval</b>		a <i>current FCA approved person approval</i> that is given by the <i>FCA</i> before the <b>commencement date</b> in relation to a <b>pre-implementation controlled function</b> .  If a <i>person</i> is approved to perform more than one <b>pre-implementation controlled function</b> for a <i>firm</i> , there is a separate <b>pre-implementation approval</b> in relation to each.
<b>pre-implementation controlled function</b>		(in relation to a <i>firm</i> ) an <i>FCA controlled function</i> that, before the <b>commencement date</b> :  (a) the <i>FCA</i> has specified for the purposes of section 59 of the <i>Act</i> (approval for particular arrangements); and  (b) applies to the <i>firm</i> (even if the <i>firm</i> has no one approved to perform that function for the time being).
<b>solo-regulated SMCR firm</b>		a <b>core SMCR firm</b> , an <b>enhanced scope SMCR firm</b> or a <b>limited scope SMCR firm</b>
<b>statement of responsibilities</b>		the <i>document</i> required to be produced under <i>SUP</i> TP 12.11, including under <i>SUP</i> TP 12.11 as applied by <i>SUP</i> TP 12.19.
<b>transitioned SMF manager</b>		AP as defined in <i>SUP</i> TP 12.2.1R

<b>Part Two: Fixed dates</b>	
<b>Defined term</b>	<b>Meaning</b>
<b>first notification date</b>	[ ] 20[ ] [about three months before main commencement date for solo-regulated firms]
<b>final notification date</b>	[ ] 20[ ] [about one week before main commencement date for solo-regulated firms]
<b>commencement date</b>	[ ] 20[ ] [main commencement date for solo-regulated firms]
<b>Form O start date</b>	[ ] 20[ ] [about six months before main commencement date for solo-regulated firms]
<p>Note: If a <i>firm</i> becomes a <b>solo-regulated SMCR firm</b> between the <b>final notification date</b> and the <b>commencement date</b> or changes category within that period, the <b>final notification date</b> for it is the date it becomes a <b>solo-regulated SMCR firm</b> or changes category.</p>	

- 12.22.3 R (1) Between the **first notification date** and the **commencement date**, the question of:
- (a) whether a *firm* is a **solo-regulated SMCR firm** for the purposes of *SUP* TP 12; and
  - (b) (if it is) into which category it falls;
- is determined in accordance with *SYSC* 23 Annex 1 (as set out in the Individual Accountability (FCA-Authorised Firms) Instrument 2018) even though the relevant parts of that chapter are not in force for other purposes.
- (2) However Part Nine of *SYSC* 23 Annex 1 (Definition of SMCR firm and different types of SMCR firms) is adjusted so that a *firm* ceases to be an **enhanced scope SMCR firm** on the date it ceases to meet the last qualification condition that it met (as referred to in Part Nine), not one year after that date.
- (3) (1) does not apply to a *firm* that is already an *SMCR firm* before the **commencement date**. Such an *SMCR firm* cannot be a **solo-regulated SMCR firm** for the purposes of *SUP* TP 12.
- 12.22.4 G (1) The effect of *SUP* TP 12.22.3R is that if a *PRA*-regulated *SMCR firm* changes its *permission* in a way that would turn it into a **solo-**

**regulated SMCR firm**, the conversion arrangements in *SUP* TP 12 will not apply to it.

- (2) *SUP* TP 12.15 will however apply and the *firm* can use this to apply for the approvals it needs because of its change of category.

12.22.5 G If a *firm* changes from being an **enhanced scope SMCR firm** to a **core SMCR firm** or a **limited scope SMCR firm** after it has sent the *FCA* its Form K, it should notify the *FCA* as described in *SUP* 15.6 (Inaccurate, false or misleading information).

12.22.5 R (1) This *rule* modifies the *rules* for making an election to become a **core SMCR firm** or an **enhanced scope SMCR firm** in accordance with the procedure set out in *SYSC* 23 Annex 1 (as set out in the Individual Accountability (FCA-Authorised Firms) Instrument 2018) for the purposes of *SUP* TP 12.22.3R.

- (2) A *firm* may make such an election on or after the **Form O start date**.

- (3) The version of Form O in *SUP* TP 12.23 replaces the version in *SYSC* 23 Annex 2R.

- (4) The election takes effect for the purposes of *SUP* TP 12.22.3R on the **first notification date** or, if it is made after that date, immediately.

- (5) If the election is made on or after the **first notification date** the *firm* must at the same time make the following notifications and applications (based on the type of **SMCR firm** it has elected to become):

- (a) any notification required by *SUP* TP 12.5, *SUP* TP 12.6 or *SUP* TP 12.8; and

- (b) any applications under *SUP* TP 12.15 if the *candidate* is to perform the relevant function on the **commencement date**.

## 12.23 Forms

12.23.1 R Form K

[Insert here the form titled “Conversion Notification Form – FCA Solo Regulated Firms (Form K)”. The text of this form is contained in Part One of Annex Q of this instrument]

12.23.2 R Form O

[Insert here the form titled “Notification of change to firm classification under the Senior Managers & Certification Regime (Pre-Commencement version) (Form O)”. The text of this form is contained in Part One of Annex Q of this instrument]

**Part 2: Comes into force [ ] 20[ ]** [main commencement date for solo-regulated firms]

**6 Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements**

...

**6.3 Applications for variation of permission and/or imposition, variation or cancellation of requirements**

...

How a variation of permission may affect the firm's approved persons

- 6.3.8 G (1) Where a *firm* is submitting an application for variation of *Part 4A permission* which would lead to a change in the *controlled functions* of its *approved persons*, it should, at the same time and as appropriate:
- (a) make an application for an internal transfer of an *approved person*, Form E (Internal transfer of a person performing a controlled function), or make an application for an individual to perform additional *controlled functions*, the relevant Form A (Application to perform ~~controlled~~ senior management functions); see:
    - (i) ~~SUP 10A.13.3D to SUP 10A.13.5G~~ (for a *firm* that is not an *SMCR firm*); [deleted]
    - (ii) ~~SUP 10C.10~~ (for an *SMCR firm*); or
    - (iii) the corresponding *PRA* requirements;
  - (b) notify the *FCA* or *PRA* of any *approved person* who has ceased to perform a *controlled function* specified by that regulator, Form C (Notice of ceasing to perform controlled functions (including senior management functions)); see:
    - (i) ~~SUP 10A.14~~ (for a *firm* that is not an *SMCR firm*); [deleted]
    - (ii) ~~SUP 10C.14~~ (for an *SMCR firm*); or

- (iii) the corresponding *PRA* requirements;
- (2) If the *firm* intends to recruit new individuals to perform *controlled functions*, it should apply for approval of the individuals as *approved persons* as soon as possible using Form A (Application to perform ~~controlled~~ senior management functions); see:
  - (a) ~~SUP 10A.13 (for a firm that is not an SMCR firm);~~  
[deleted]
  - (b) SUP 10C.10 (for an SMCR firm); or
  - (c) the corresponding *PRA* requirements.

SMCR firm status

6.3.9 G A variation of a *firm*'s Part 4A permission may mean that it becomes an SMCR firm or that it changes from one type of SMCR firm to another. This would have a number of significant consequences, which include:

- (1) the application of the special powers in relation to misconduct by *approved persons* (see DEPP 6.2.9-AG);
- (2) the ~~*approved persons* senior managers regime switches from SUP 10A to~~ in SUP 10C applies;
- (3) COCON applies ~~in place of APER~~ to its staff; and
- (4) the other elements of the regime for SMCR firms described in SYSC 23.4 (Overview of the senior managers and certification regime) apply (which differ depending on the type of SMCR firm).

...

6.3.25 G Information which may be required. See SUP 6.3.24G

Type of business	Information which may be required
All	...
	3. Organisation charts and details of individuals transferring or being recruited to perform new <i>controlled functions</i> (see <del>SUP 10A and SUP 10C</del> , and the corresponding <i>PRA</i> requirements for details of the application or transfer procedures under the <del><i>approved persons</i></del> <u><i>approved persons</i> or senior managers regime</u> ).



...	...
-----	-----

...

## 6.4 Applications for cancellation of permission

...

### Approved persons

6.4.18 G (1) A *firm* which is applying for cancellation of *Part 4A permission* and which is not otherwise *authorised* by, or under, the *Act* should, at the same time:

(a) comply with:

(i) ~~SUP 10A.14.8R (for a *firm* that is not an *SMCR firm*); [deleted]~~

(ii) ~~SUP 10C.14.5R (for an *SMCR firm*);~~ or

(iii) the corresponding *PRA* requirements; and

...

...

...

## 10A FCA Approved Persons in Appointed Representatives

### 10A.1 Application

10A.1.1 R This chapter applies to every ~~(1) *firm* that is not an *SMCR firm* that~~ has an *appointed representative*.

~~;~~ and

~~(2) *SMCR firm*, but only to the extent required by SUP 10A.1.16BR (Appointed representatives).~~

...

10A.1.2 G This chapter is also relevant to ~~every *FCA approved person*:~~

(1) ~~of a *firm* that is not an *SMCR firm*~~ *FCA approved person* of an *appointed representative* of an *SMCR firm*; and

- (2) ~~of any appointed representative, including of an appointed representative of an SMCR firm.~~

...

Overseas ~~firms~~ appointed representatives: UK services

- 10A.1.5 R (1) This chapter does not apply in relation to an ~~overseas firm~~ overseas appointed representative in relation to regulated activities which are carried on in the *United Kingdom* other than from an establishment maintained by ~~it or its~~ that appointed representative in the *United Kingdom*.
- (2) An overseas appointed representative means an appointed representative which has its registered office (or, if it has no registered office, its head office) outside the United Kingdom.

Overseas ~~firms~~ appointed representatives: UK establishments

- 10A.1.6 R - (1) Only the following *FCA controlled governing functions* (as modified by this rule) apply in relation to an ~~overseas firm~~ overseas appointed representative which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on:
- (a) the director function;
  - (b) the non-executive director function; and
  - (c) the chief executive function.
- (1) ~~the~~ The director function where only applies to the extent that the person performing that function:
- (a) has responsibility for the *regulated activities* of ~~a~~ the UK branch establishment which are likely to enable ~~him~~ them to exercise significant influence over that ~~branch~~ establishment; or
  - (b) is someone whose decisions or actions are regularly taken into account by the *governing body* of that ~~branch;~~ establishment.
- (2) ~~the~~ The non-executive director function where only applies to the extent that the person performing one of those functions that function:
- (a) has responsibility for the *regulated activities* of ~~a~~ the UK branch establishment which is likely to enable ~~him~~ them to exercise significant influence over that ~~branch~~ establishment; or

- (b) is someone whose decisions or actions are regularly taken into account by the *governing body* of that ~~*branch*~~; establishment.
- (3) ~~the *chief executive function*~~; [deleted]
- (4) ~~the *FCA required functions*~~; [deleted]
- (5) ~~the *systems and controls function*~~; [deleted]
- (6) ~~the *significant management function* in so far as the function relates to:~~
- (a) ~~*designated investment business other than dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*; or~~
- (b) ~~processing confirmations, payments, settlements, insurance claims, *client money* and similar matters in so far as this relates to *designated investment business*; and~~ [deleted]
- (7) ~~the *customer function*~~. [deleted]
- (8) An overseas appointed representative means an appointed representative which has its registered office (or, if it has no registered office, its head office) outside the United Kingdom.

Incoming EEA firms; and incoming Treaty firms ~~and UCITS qualifiers~~

- 10A.1.7 R This chapter does not apply in relation to the appointed representative of:
- (1) an *incoming EEA firm*; or
- (2) an *incoming Treaty firm*; ~~or~~
- (3) ~~a *UCITS qualifier*~~; [deleted]

if and in so far as the question of whether a *person* is fit and proper to perform a particular function in relation to that *firm* is reserved, under any of the *Single Market Directives*, the *Treaty*, ~~the *UCITS Directive*~~, the *auction regulation* or the *benchmarks regulation*, to an authority in a country or territory outside the *United Kingdom*.

- 10A.1.8 G SUP 10A.1.7R reflects the provisions of section 59(8) of the *Act* and, in relation to an incoming *Treaty firm* ~~and a *UCITS qualifier*~~, the *Treaty* ~~and the *UCITS Directive*~~. It preserves the principle of *Home State* prudential regulation. In relation to an *incoming EEA firm* exercising an *EEA right*, or an *incoming Treaty firm* exercising a *Treaty right*, the effect is to reserve to the *Home State regulator* the assessment of the fitness and propriety of a *person* performing a function in the exercise

of that right. A member of the *governing body*, or the notified *UK branch manager*, of an *incoming EEA firm*, acting in that capacity, will not therefore have to be approved by the *FCA* under the *Act*.

10A.1.9 G Notwithstanding ~~SUP 10A.1.8G~~, an *incoming EEA firm* or *incoming Treaty firm* will have had to consider the impact of the *Host State* rules with which it is required to comply when carrying on a *passported activity* or *Treaty activity* through a *branch* in the *United Kingdom*. An *incoming EEA firm* will have been notified of those provisions under Part II of Schedule 3 to the *Act* in the course of satisfying the conditions for *authorisation* in the *United Kingdom*. ~~[deleted]~~

10A.1.10 G An *incoming EEA firm* will have to consider, for example, the position of a *branch manager* based in the *United Kingdom* who may also be performing a function in relation to the carrying on of a *regulated activity* not covered by the *EEA right* of the *firm*. In so far as the function is within the description of an *FCA controlled function*, the *firm* will need to seek approval for that *person* to perform that *FCA controlled function*. ~~[deleted]~~

Incoming EEA firms: ~~passported activities from a branch~~

10A.1.11 R Only the following *FCA controlled functions* apply to an *incoming EEA firm* with respect to its *passported activities* carried on from a *branch* in the *United Kingdom*:

- (1) ~~the money laundering reporting function;~~
- (2) ~~the significant management function, in so far as the function relates to:~~
  - (a) ~~designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order; or~~
  - (b) ~~processing confirmations, payments, settlements, insurance claims, client money and similar matters, in so far as this relates to designated investment business; and~~
  - (c) ~~[deleted]~~
- (3) ~~the customer function other than where this relates to the function in SUP 10A.10.7R(4) and (7). [deleted]~~

...

Incoming EEA firms etc with top-up permission activities from a UK branch

10A.1.13 R In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *FCA controlled functions* apply:

- (1) ~~the FCA required functions, other than the apportionment and oversight function and the compliance oversight function;~~
  - (2) ~~the significant management function, in so far as it relates to:~~
    - (a) ~~designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order; or~~
    - (b) ~~processing confirmations, payments, settlements, insurance claims, client money and similar matters, in so far as this relates to designated investment business; and~~
    - (c) ~~[deleted]~~
  - (3) ~~the customer function. [deleted]~~
- 10A.1.14 R ~~A person does not perform the significant management function for a firm under SUP 10A.1.11R or SUP 10A.1.13R if that person would not have been treated as performing any FCA controlled function for that firm if that firm had been a UK firm. [deleted]~~

Appointed representatives Exclusions and modifications

- 10A.1.15 R ~~The descriptions of the following FCA controlled functions apply to an appointed representative of a firm, except This chapter does not apply in relation to CBTL business or to an introducer appointed representative, as they apply to an FCA authorised person: .~~
- (1) ~~the FCA governing functions, subject to SUP 10A.1.16R and except for a tied agent of an EEA MiFID investment firm; and~~
  - (2) ~~the customer function other than in relation to acting in the capacity of an investment manager (see SUP 10A.10.7R(6)).~~
- 10.1.15A R The FCA governing functions do not apply to a tied agent of an EEA MiFID investment firm.
- 10A.1.16 R (1) ~~SUP 10A.1.15R~~ This chapter is modified in relation to an appointed representative meeting the conditions in (2) so that only one of the following FCA governing functions:
- (a) ~~director function; or~~
  - (b) ~~chief executive function; or~~
  - (c) ~~partner function; or~~
  - (d) ~~director of unincorporated association function;~~

applies, as appropriate, to an individual within that *appointed representative* who will be required to be an *FCA-approved person*.

- (2) The conditions are that:
- (a) the scope of appointment of the *appointed representative* includes *insurance distribution activity* in relation to *non-investment insurance contracts* or *credit-related regulated activity*, but no other *regulated activity*; and
  - (b) the principal purpose of the *appointed representative* is to carry on activities other than *regulated activities*.
- 10A.1.16A R ~~This~~ The *customer function* is the only *controlled function* in this chapter that applies to an *appointed representative* that is an *SMCR firm* and has a *limited permission* to carry on a *regulated activity* prescribed for the purposes of section 39(1E)(a) of the *Act* as follows:
- (1) ~~*FCA-controlled functions* apply to the *appointed representative* as set out in *SUP 10A.1.15R* and *SUP 10A.1.16R* in relation to the carrying on of the *regulated activity*, for which it does not have *permission*, comprised in the business for which its *principal* has accepted responsibility;~~
  - (2)
    - (a) ~~unless it is a *not for profit debt advice body*, the *apportionment and oversight function* applies in relation to the carrying on of the *regulated activity* for which it has *limited permission*;~~
    - (b) ~~if it is a *not for profit debt advice body* and a *CASS large debt management firm*, the *CASS operational oversight function* applies in relation to the carrying on of *debt management activity*.~~
- 10A.1.16B R ~~*SUP 10A.1.15R* and *SUP 10A.1.16R* apply to the *appointed representative* of an *SMCR firm*. [deleted]~~
- 10A.1.16C G (1) ~~References in this chapter to a *firm* include an *SMCR firm*, but only to the extent required by *SUP 10A.1.16BR*. Certain additional *controlled functions* apply to a *firm* in *SUP 10A.1.16AR* under *SUP 10C* (*FCA senior managers regime* for approved persons in *SMCR firms*).~~
- (2) ~~References in *SUP 10A.1.15R* and *SUP 10A.1.16R* to *FCA governing functions* and other *controlled functions* are to *controlled functions* in this chapter, not in *SUP 10C* (*FCA senior managers regime* for approved persons in *SMCR firms*).~~

#### Senior management functions

- 10A.1.16D G ...
- (2) Generally, the *FCA* does not think that a *person* performing a function in ~~*SUP 10A.1.16BR*~~ this chapter will have sufficient responsibility for managing the affairs of the *appointed representative's principal* (as opposed to managing the affairs of the *appointed representative* itself) to perform a *senior management function*.
- (3) Therefore:
- (a) the *FCA* has not designated any of the functions in ~~*SUP 10A.1.16BR*~~ this chapter as a *senior management function*; and
- (b) none of the functions in ~~*SUP 10A.1.16BR*~~ this chapter are *designated senior management functions*.

...

## Members of a profession

- 10A.1.17 R (1) ~~This chapter, except in respect of the *FCA required functions*, does not apply to an *authorised professional firm* in respect of its *non-mainstream regulated activities*, subject to (2).~~
- (2) ~~Where the *authorised professional firm* has appointed *FCA-approved persons* to perform the *FCA governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*, for the *firm's non-mainstream regulated activities* this chapter applies with respect to the *FCA governing functions* and the *FCA required functions* (other than the *apportionment and oversight function*) only. [deleted]~~

~~Oil market participants, service companies, energy market participants, subsidiaries of local authorities or registered social landlords and insurance intermediaries~~

- 10A.1.18 R ~~The descriptions of *FCA significant influence functions*, other than the *FCA required functions*, and, if the *firm* is a *MiFID investment firm*, the *FCA governing functions* do not extend to activities carried on by a *firm* whose principal purpose is to carry on activities other than *regulated activities* and which is:~~
- (1) ~~an *oil market participant*; or~~
- (2) ~~a *service company*; or~~
- (3) ~~an *energy market participant*; or~~

- (4) a wholly owned *subsidiary* of:
- (a) a local authority; or
  - (b) a registered social landlord; or
- (5) ~~a firm with permission to carry on insurance distribution activity in relation to non-investment insurance contracts but no other regulated activity (except advising on P2P agreements).~~  
[deleted]
- 10A.1.19 G It will be a matter of fact in each case whether, having regard to all the circumstances, including in particular where the balance of the business lies, a *firm's* principal purpose is to carry on activities other than *regulated activities*. If a *firm* wishes to rely on SUP 10A.1.18R, it should be in a position to demonstrate that its principal purpose is to carry on activities other than *regulated activities*. [deleted]

...

~~Bidders in emissions auctions~~

- 10A.1.21 G For a *firm* that is exempt from *MiFID* under article 2(1)(j) and whose only *permission* is *bidding in emissions auctions*, the only *FCA controlled functions* that apply to it are:
- (1) the *FCA governing functions*;
  - (2) the *money laundering reporting function*; and
  - (3) the *customer function*.

This is because the *FCA approved person* regime specifies a number of functions by incorporation of requirements in *SYSC*; however, a *firm* carrying on *auction regulation bidding* is only subject to *SYSC* to a limited extent in relation to that activity. This means that the *FCA required functions* do not apply to *auction regulation bidding*, except for the *money laundering reporting function*. Similarly, the *significant management function* does not apply in relation to *auction regulation bidding* because, in carrying on that activity, a *firm* is not subject to *SYSC 4.1.1R* and is not undertaking *proprietary trading*. [deleted]

~~Benchmark activities~~

- 10A.1.21A G (1) For a *firm* which only has a *permission* for *administering a benchmark*, the following *FCA controlled functions* do not apply:
- (a) the *apportionment and oversight function*;
  - (b) the *compliance oversight function*;



- (e) *the money laundering reporting function; and*
- (d) *the systems and controls function.*

(2) ~~That is because:~~

- (a) ~~the FCA controlled functions in (a) to (c) above do not apply because those functions are specified by incorporation of requirements in SYSC and the relevant parts of SYSC do not apply in relation to benchmark activities (which includes administering a benchmark);~~
- (b) ~~the FCA controlled function in (d) above does not apply in relation to benchmark activities (see SUP 10A.8.2R).~~

(3) ~~The functions in (a) to (d) still apply to a firm which administers a benchmark as well as carrying on other regulated activities. However, they do not apply in respect of its activities as a regulated benchmark administrator.~~

(4) ~~Various other FCA controlled functions are only relevant to firms which carry on particular types of activity and will not be relevant to a firm (F) which does not carry on any regulated activities other than administering a benchmark. For instance:~~

- (a) ~~the CASS operational oversight function will not be relevant to F because that function is only relevant to CASS medium firms CASS large firms and CASS large debt management firms; F will not hold client money and will therefore not be a CASS medium firm, a CASS large firm or a CASS large debt management firm;~~
- (b) ~~the customer function involves performing various types of activity none of which would be performed by a firm which does not carry on any regulated activities other than administering a benchmark;~~
- (c) ~~the small friendly society function will only be relevant to certain firms.~~

(5) ~~The functions in SUP 10A.1.21AG(1)(a) to (d) do not apply to a benchmark contributor in relation to its contribution of input data to a BMR benchmark administrator.~~

(6) ~~That is because:~~

- (a) ~~the functions in SUP 10A.1.21AG(1)(a) to (c) are specified by incorporation of requirements in SYSC and the relevant parts of SYSC do not apply in relation to benchmark activities (which includes contributing input data to a BMR benchmark administrator); and~~

- (b) ~~the FCA controlled function in SUP 10A.1.21AG(1)(d) above does not apply in relation to benchmark activities (see SUP 10A.8.2R).~~

...

#### ~~Internally managed corporate AIFs~~

- 10A.1.24 G ~~In accordance with section 59(7C) of the Act this chapter does not apply to an internally managed AIF which is a body corporate and not a collective investment scheme. [deleted]~~

#### ~~Credit firms with limited permission~~

- 10A.1.25 R (1) ~~Subject to (2) and (3), this chapter, except in respect of the apportionment and oversight function, does not apply to a firm that has limited permission in relation to the carrying on of the relevant credit activity (as defined in paragraph 2G of Schedule 6 to the Act) for which it has limited permission.~~
- (2) ~~Subject to (3), this chapter does not apply to a not for profit debt advice body.~~
- (3) ~~This chapter applies to a not for profit debt advice body that is a CASS large debt management firm with respect to the CASS operational oversight function only. [deleted]~~

...

#### Obligations on firms

- 10A.1.28 G (1) The requirements in this chapter about notifications and applications are addressed to firms. This means the appointed representative's principal.
- (2) If an appointed representative has more than one principal, the requirements in (1) are addressed to the authorised approved person employer of the approved person in question.

...

## **10A.2 Purpose**

- 10A.2.1 G The immediate purpose of SUP 10A.3 to SUP 10A.11 is to specify, under section 59 of the Act, descriptions of the FCA controlled function which are listed in SUP 10A.4.4R. The underlying purpose is to establish, and mark the boundaries of, the "FCA-approved persons regime" for appointed representatives.

...

**10A.3 Provisions related to the Act**

...

10A.3.3 G *Arrangement* is defined in section 59(10) of the Act as any kind of arrangement for the performance of a function which is entered into by a *firm* or any of its contractors with another *person* and includes the appointment of a *person* to an office, ~~his~~ their becoming a *partner*, or ~~his~~ their employment (whether under a contract of service or otherwise). ~~For the provisions in this chapter relating to outsourcing, see SUP 10A.13.5G and SUP 10A.13.6G.~~

10.3.4 G If, however, a *firm* is a member of a group, and the ~~arrangements for the performance of an FCA controlled function of the firm are made by, for instance, the holding company, the person performing the function~~ will only require approval if there is an arrangement (under section 59(1)) or a contract (under section 59(2)) between the *firm* and *holding company* permitting this. This need not be a written contract but could arise, for example, by conduct, custom and practice. ~~[deleted]~~

...

**10A.4 Specification of functions**

...

10A.4.2 R ~~The table of FCA controlled functions applies in relation to an FCA-*authorised person*. It also applies in relation to an *appointed representative* for the purposes of SUP 10A.1.15R to SUP 10A.1.16BR (Appointed representatives) whether its *principal* is an FCA-*authorised person* or a PRA-*authorised person*.~~ ~~[deleted]~~

...

10A.4.4 R FCA controlled functions

(FCA controlled functions for <del>FCA-<i>authorised persons</i></del> and appointed representatives)		
Type	CF	Description of FCA controlled function
<i>FCA governing functions*</i>	1	<i>Director function</i>
	2	<i>Non-executive director function</i>
	3	<i>Chief executive function</i>
	4	<i>Partner function</i>

	5	<i>Director of unincorporated association function</i>
	6	<i>Small friendly society function</i>
<i>FCA required functions*</i>	8	<i>Apportionment and oversight function</i>
	10	<i>Compliance oversight function</i>
	10A	<i>CASS operational oversight function</i>
	11	<i>Money laundering reporting function</i>
<i>Systems and controls function*</i>	28	<i>Systems and controls function</i>
<i>Significant management function*</i>	29	<i>Significant management function</i>
<i>Customer-dealing function</i>	30	<i>Customer function</i>
<i>*FCA significant-influence functions</i>		

## 10A.5 Significant-influence functions

What are the FCA significant-influence functions?

- 10A.5.1 G The *FCA significant-influence functions*, which are specified in *SUP 10A.4.1R*, comprise the *FCA governing functions* (*SUP 10A.6*), ~~the *FCA required functions* (*SUP 10A.7*), the *systems and controls function* (*SUP 10A.8*) and the *significant management function* (*SUP 10A.9*).~~ *SUP 10A.5* applies to each of the *FCA significant-influence functions*.

...

Periods of less than 12 weeks

- 10A.5.6 R If:
- (1) a *firm* or its *appointed representative* appoints an individual to perform a function which, but for this *rule*, would be an *FCA significant-influence function*;

...

- 10A.5.7 G *SUP* 10A.5.6R enables cover to be given for, as an example, holidays and emergencies and avoids the need for the precautionary approval of, for example, a deputy. However, as soon as it becomes apparent that a *person* will be performing an *FCA controlled function* for more than 12 weeks, the ~~firm~~ authorised approved person employer of the approved person in question should apply for approval.

## 10A.6 FCA governing functions

### Introduction

- 10A.6.1 G Every ~~firm~~ appointed representative will have one or more *persons* responsible for directing its affairs. These *persons* will be performing the *FCA governing functions* and will be required to be *FCA-approved persons* unless the application provisions in *SUP* 10A.1, or the particular description of an *FCA controlled function*, provide otherwise. For example, each *director* of a *company* incorporated under the Companies Acts will perform an *FCA governing function*.

...

### ~~What the FCA governing functions include~~

- 10A.6.3 R ~~Each of the FCA governing functions includes:~~
- (1) ~~(where apportioned under SYSC 4.3.1R and SYSC 4.4.3R (or, for a full scope UK AIFM apportioned under article 60(1) of the AIFMD level 2 regulation))~~
    - (a) ~~the systems and controls function (if it applies to the firm); and~~
    - (b) ~~the significant management function;~~
  - (2) ~~(in respect of bidding in emissions auctions) that part of the customer function specified in SUP 10A.10.7R(7) (bidder's representative).~~

~~This does not apply to the non-executive director function or the function described in SUP 10A.6.8R. [deleted]~~

- 10A.6.4 G (1) ~~The effect of SUP 10A.6.3R is that a person who is approved to perform an FCA governing function will not have to be specifically FCA approved to perform the systems and controls function or the significant management function or the part of the customer function specified in SUP 10A.10.7R(7). However, a person who is approved to perform an FCA~~

- governing function* will have to be additionally *FCA* approved before he can perform any of the *FCA* required functions or the *customer function* (except the part specified in *SUP* 10A.10.7R(7)).
- (2) *SUP* 10A.6.3R does not apply to the *non-executive director function*. It does not apply to the *director function* if the only part of that function that the *FCA* approved person is performing is the function described in *SUP* 10A.6.8R. [deleted]
- 10A.6.5 G See *MIPRU* 2.2 for how the *FCA*'s approved persons regime is adjusted for a firm carrying on insurance distribution activity. [deleted]
- Director function (CF1)
- 10A.6.7 R If a firm an appointed representative is a *body corporate* (other than a *limited liability partnership*), the *director function* is the function of acting in the capacity of a *director* (other than *non-executive director*) of that firm appointed representative.
- 10A.6.8 R (1) If a firm an appointed representative is a *body corporate* (other than a *limited liability partnership*), the *director function* is also the function of acting in the capacity of a *person*:
- (a) who is a *director*, partner, officer, member (if the *parent undertaking* or *holding company* is a *limited liability partnership*), *senior manager*, or employee of a *parent undertaking* or *holding company* of the firm appointed representative; and
- (b) whose decisions or actions are regularly taken into account by the *governing body* of the firm appointed representative.
- (2) (1) does not apply if that *parent undertaking* or *holding company* has a *Part 4A permission* or is regulated by an *EEA regulator*.
- (3) (1) does not apply to the function falling into *SUP* 10A.6.13R (*non-executive director* of the *parent undertaking* or *holding company*).
- 10A.6.9 G Examples of where *SUP* 10A.6.8R might apply include (but are not limited to):
- (1) a chairman of an audit committee of a *parent undertaking* or *holding company* of a *UK firm* where that audit committee is working for that *UK firm* (that is, functioning as the audit committee for the *group*); or

- (2) ~~a director (other than a non-executive director) of a parent undertaking or holding company of a UK firm exercising significant influence by way of his involvement in taking decisions for that UK firm; or~~
- (3) ~~an individual (such as a senior manager) of a parent undertaking or holding company of a UK firm who is responsible for and/or has significant influence in setting the objectives for and the remuneration of executive directors of that UK firm; or~~
- (4) ~~an individual who is a director (other than a non-executive director) or a senior manager of a parent undertaking or holding company of a UK firm who is accustomed to influencing the operations of that UK firm, and acts in a manner in which it can reasonably be expected that an executive director or senior manager of that UK firm would act; or~~
- (5) ~~an individual of an overseas firm which maintains an establishment in the United Kingdom from which regulated activities are carried on, where that individual has responsibilities for those regulated activities which are likely to enable him to exercise significant influence over the UK branch. [deleted]~~

...

#### Non-executive director function (CF2)

- 10A.6.12 R If a ~~firm~~ an appointed representative is a body corporate, the non-executive director function is the function of acting in the capacity of a non-executive director of that ~~firm~~ appointed representative.
- 10A.6.13 R (1) If a ~~firm~~ an appointed representative is a body corporate, the non-executive director function is also the function of acting in the capacity of a person:
- (a) who is a non-executive director of a parent undertaking or holding company; and
  - (b) whose decisions or actions are regularly taken into account by the governing body of the ~~firm~~ appointed representative.
- (2) However, (1) does not apply if that parent undertaking or holding company has a Part 4A permission or is regulated by an EEA regulator.
- 10A.6.14 G ~~Examples of where SUP 10A.6.13R might apply include (but are not limited to):~~

- (1) ~~an individual who is a non-executive director of a parent undertaking or holding company who takes an active role in the running of the business of a UK firm, for example, as a member of a board or committee (on audit or remuneration) of that firm; or~~
- (2) ~~an individual who is a non-executive director of a parent undertaking or holding company having significant influence in setting and monitoring the business strategy of the UK firm; or~~
- (3) ~~an individual who is a non-executive director of a parent undertaking or holding company of a UK firm involved in carrying out responsibilities such as scrutinising the approach of executive management, performance, or standards of conduct of the UK firm; or~~
- (4) ~~an individual who is a non-executive director of a parent undertaking or holding company of a UK firm who is accustomed to influence the operations of the UK firm, and acts in a way in which it can reasonably be expected that a non-executive director of the UK firm would act; or~~
- (5) ~~an individual who is a non-executive director of an overseas firm which maintains a branch in the United Kingdom from which regulated activities are carried on where that individual has responsibilities for those regulated activities which are likely to enable him to exercise significant influence over the UK branch. [deleted]~~

...

Guidance on persons in a parent undertaking or holding company exercising significant influence

- 10A.6.16 G (1) ~~This paragraph explains~~ The explanation in SUP 10C.5B.2G of the basis on which the group entity senior manager function is included as a controlled function for an SMCR firm is also relevant to the basis on which the director function and the non-executive director function are applied to persons who have a position with the firm's an appointed representative's parent undertaking or holding company under SUP 10A.6.8R or SUP 10A.6.13R.
- (2) ~~The basic position is set out in SUP 10A.3.4G. As is the case with all controlled functions,~~ The guidance in SUP 10C.5B.3G to SUP 10C.5B.5G about when the group entity senior manager function applies to an SMCR firm is also relevant to when those who have a position with an appointed representative's parent undertaking or holding company may be performing a controlled function under SUP 10A.6.8R and or SUP 10A.6.13R, are subject to the overriding provisions in SUP



~~10A.3.1R, which sets out the requirements of section 59(1) and (2) of the Act. This means that unless the *firm* has an *arrangement* permitting the performance of these roles by the *persons* concerned, these *persons* will not be performing these *controlled functions*. Therefore, the *FCA* accepts that there will be cases in which a *person* performing these roles will not require approval. However where there is such an *arrangement* the function may apply.~~

Chief executive function (CF3)

- 10A.6.17 R The *chief executive function* is the function of acting in the capacity of a *chief executive* of ~~a *firm*~~ an *appointed representative*.
- 10A.6.18 G This function is having the responsibility, alone or jointly with one or more others, under the immediate authority of the *governing body*:
- (1) for the conduct of the whole of the business (or relevant activities); or
  - (2) in the case of a ~~*branch*~~ *branch* in the *United Kingdom* of ~~an *overseas firm*~~ a non-UK *appointed representative*, for the conduct of all of the activities subject to the *UK regulatory system*.
- 10A.6.19 G For a ~~*branch*~~ *branch* in the *United Kingdom* of ~~an *overseas firm*~~ a non-UK *appointed representative*, the *FCA* would not normally expect the overseas *chief executive* of the ~~*firm*~~ *appointed representative* as a whole to be *FCA*-approved for this function where there is a *senior manager* under ~~him~~ them with specific responsibility for those activities of the ~~*branch*~~ *branch* which are subject to the *UK regulatory system*. In some circumstances, the *person* within the ~~*firm*~~ *appointed representative* responsible for *UK* operations may, if the function is likely to enable ~~him~~ them to exercise significant influence over the ~~*branch*~~ *branch*, also perform the *chief executive function* (see ~~SUP 10A.7.4G~~).

...

Partner function (CF4)

- 10A.6.23 R
- (1) If ~~a *firm*~~ an *appointed representative* is a *partnership*, the *partner function* is the function of acting in the capacity of a *partner* in that ~~*firm*~~ *appointed representative*.
  - (2) If the principal purpose of the ~~*firm*~~ *appointed representative* is to carry on one or more *regulated activities*, each *partner* performs the *partner function*.
  - (3) If the principal purpose of the ~~*firm*~~ *appointed representative* is other than to carry on *regulated activities*:

- (a) a *partner* performs the *partner function* to the extent only that ~~he has~~ they have responsibility for a *regulated activity*; and
  - (b) a *partner* in a ~~firm~~ an appointed representative will be taken to have responsibility for each *regulated activity* except where the *partnership* has apportioned responsibility to another *partner* or group of *partners*.
- 10A.6.24 G ~~Any apportionment referred to in SUP 10A.6.23R(3)(b) will have taken place under SYSC 4.3.1R and SYSC 4.4.3R. The FCA may ask to see details of the apportionment but will not require, as a matter of course, a copy of the material which records this. [deleted]~~
- 10A.6.25 G ~~The effect of SUP 10A.1.17R is that regulated activity in SUP 10A.6.23R (and elsewhere) is to be taken as not including an activity that is a non-mainstream regulated activity. Therefore, a partner whose only regulated activities are incidental to his professional services, in a partnership whose principal purpose is to carry on other than regulated activities, need not be an FCA-approved person. What amounts to the principal purpose of the firm is a matter of fact in each case having regard to all the circumstances, including the activities of the firm as a whole. Any regulated activities which such a partner carries on are not within the description of the partner function. [deleted]~~
- 10A.6.26 R If a ~~firm~~ an appointed representative is a *limited liability partnership*, the *partner function* extends to the ~~firm~~ appointed representative as if the ~~firm~~ appointed representative were a *partnership* and a member of the ~~firm~~ appointed representative were a *partner*.
- ...
- Director of unincorporated association function (CF5)
- 10A.6.29 R If a ~~firm~~ an appointed representative is an unincorporated association, the *director of unincorporated association function* is the function of acting in the capacity of a *director* of the unincorporated association.
- ...
- Small friendly society function (CF6)
- 10A.6.31 R (1) ~~If a firm is a non-directive friendly society, the small friendly society function is the function of directing its affairs, either alone or jointly with others.~~
- (2) ~~If the principal purpose of the firm is to carry on regulated activities, each person with responsibility for directing its affairs performs the FCA controlled function.~~

- (3) If the principal purpose of the *firm* is other than to carry on *regulated activities*, a *person* performs the *small friendly society function* only to the extent that he has responsibility for a *regulated activity*. [deleted]
- 10A.6.32 R (1) Each *person* on the *non-directive friendly society's governing body* will be taken to have responsibility for its *regulated activities*, unless the *firm* has apportioned this responsibility to one particular individual to whom it is reasonable to give this responsibility.
- (2) The individual need not be a member of the *governing body*. [deleted]
- 10A.6.33 G Typically a *non-directive friendly Society* will appoint a “committee of management” to direct its affairs. However, the governing arrangements may be informal and flexible. If this is the case, the *FCA* would expect the society to resolve to give responsibility for the carrying on of *regulated activities* to one individual who is appropriate in all the circumstances. That individual may, for example, have the title of *chief executive* or similar. The individual would have to be an *FCA-approved person* under *SUP* 10A.6.31R. [deleted]
- 10A.6.34 G In practice, the *FCA* expects that most *non-directive friendly societies* will be *PRA authorised persons*. Where that is the case, this chapter does not apply and so the *small friendly society function* will not apply. [deleted]
- 10A.7 FCA required functions [deleted]**
- Apportionment and oversight function (CF8)
- 10A.7.1 R (1) The *apportionment and oversight function* is the function of acting in the capacity of a *director* or *senior manager* responsible for the apportionment function and/or the oversight function set out in *SYSC* 4.4.5R.
- (2) [deleted]
- 10A.7.2 G In requiring someone to apportion responsibility, a *common platform firm* should not apply for that *person* or *persons* to be *FCA* approved to perform the *apportionment and oversight function* (see *SUP* 10A.7.1R and *SYSC* 1 Annex 1).
- 10A.7.3 G The fact that there is a *person* performing the *apportionment and oversight function*, and who has responsibility for activities subject to regulation by the *FCA*, may have a bearing on whether a manager who is based overseas will be performing an *FCA controlled function*. It is a

factor to take into account when assessing the likely influence of the overseas manager.

- 10A.7.4 G Generally, in relation to a UK establishment of an *overseas firm* or a *firm* which is part of an *overseas group*, where an overseas manager's responsibilities in relation to the *United Kingdom* are strategic only, they will not need to be an *FCA-approved person*. However, where, in accordance with SYSC 4 to SYSC 10, they are responsible for implementing that strategy in the *United Kingdom*, and have not delegated that responsibility to a *senior manager* in the *United Kingdom*, they are likely to be performing an *FCA-controlled function* for example, the *chief executive function*.
- 10A.7.5 G A *firm* carrying on *insurance distribution activity*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance distribution activity* (MIPRU 2.2.1R). The *firm* may allocate this responsibility to the *person* performing the *apportionment and oversight function*.
- 10A.7.6 G Where the *person* performing the *apportionment and oversight function* is also responsible for the *firm's insurance distribution activity*, the words "(insurance distribution)" will be inserted after this *FCA controlled function* (see MIPRU 2.2.5G).
- 10A.7.7 G [deleted]
- Compliance oversight function (CF10)
- 10A.7.8 R The *compliance oversight function* is the function of acting in the capacity of:
- (1) a *director* or *senior manager* who is allocated the function set out in:
    - (a) [deleted]
    - (b) SYSC 6.1.4R(2); or
    - (c) article 22(3) of the *MiFID Org Regulation*; or
    - (d) article 22(3) of the *MiFID Org Regulation* (as applied in accordance with SYSC 1 Annex 1 2.8AR, SYSC 1 Annex 1 3.2 AR, SYSC 1 Annex 1 3.2 BR, SYSC 1 Annex 1 3.2CR and SYSC 1 Annex 1 3.3R); or
    - (e) SYSC 6.1.4CR; or
  - (2) for a *full-scope UK AIFM*, a person allocated the function in article 61(3)(b) of the *AIFMD level 2 regulation*.

CASS operational oversight function (CF10a)

- 10A.7.9 R In relation to a *CASS medium firm* and a *CASS large firm* (other than a *CASS large debt management firm*), the *CASS operational oversight function* is the function of acting in the capacity of a *person* to whom is allocated the function set out in *CASS 1A.3.1AR*.
- 10A.7.9A R In relation to a *CASS large debt management firm*, the *CASS operational oversight function* is the function of acting in the capacity of a *person* to whom is allocated the function in *CASS 11.3.4R*.
- Money laundering reporting function (CF11)
- 10A.7.10 R The *money laundering reporting function* is the function of acting in the capacity of the *money laundering reporting officer* of a *firm*.
- 10A.7.11 G A *firm's* obligations in respect of its *money laundering reporting officer* are set out elsewhere in the *FCA Handbook* (see *SYSC 6.3.9R* and for their scope, see the application provisions in *SYSC 1 Annex 1*).
- 10A.8 Systems and controls functions [deleted]**
- 10A.8.1 R The *systems and controls function* is the function of acting in the capacity of an *employee* of the *firm* with responsibility for reporting to the *governing body* of a *firm*, or the audit committee (or its equivalent) in relation to:
- (1) its financial affairs;
  - (2) setting and controlling its risk exposure (see *SYSC 7.1.6R*, article 23(2) of the *MiFID Org Regulation* and article 23(2) of the *MiFID Org Regulation* (as applied in accordance with *SYSC 1 Annex 1 2.8AR*, *SYSC 1 Annex 1 3.2 AR*, *SYSC 1 Annex 1 3.2 BR*, *SYSC 1 Annex 1 3.2CR* and *SYSC 1 Annex 1 3.3R*)); and
  - (3) adherence to internal systems and controls, procedures and policies (see *SYSC 6.2*, article 24 of the *MiFID Org Regulation* and article 24 of the *MiFID Org Regulation* (as applied in accordance with *SYSC 1 Annex 1 2.8AR*, *SYSC 1 Annex 1 3.2 AR*, *SYSC 1 Annex 1 3.2 BR*, *SYSC 1 Annex 1 3.2CR* and *SYSC 1 Annex 1 3.3R*).
- 10A.8.2 R The *systems and controls function* does not apply in relation to:
- (1) *bidding in emissions auctions* carried on by a *firm* that is exempt from *MiFID* under article 2(1)(j); or
  - (2) *benchmark activities*.
- 10A.8.3 G [deleted]

10A.8.4 G ~~Where an *employee* performs the *systems and controls function* the *FCA* would expect the *firm* to ensure that the *employee* had sufficient expertise and authority to perform that function effectively. A *director* or *senior manager* would meet this expectation.~~

Full scope UK AIFM

10A.8.5 G ~~For a full scope UK AIFM, the requirement to have an *employee* responsible for reporting to the *governing body* of the *firm* or the audit committee for matters in *SUP* 10A.8.1R(2) and *SUP* 10A.8.1R(3) is derived from the AIFMD level 2 regulation, which imposes obligations on such *firms* to have a permanent risk management function and, where appropriate and proportionate for their business, an internal audit function.~~

## 10A.9 Significant management functions [deleted]

Application

10A.9.1 R ~~*SUP* 10A.9 applies only to a *firm* which:~~

- ~~(1) under *SYSC* 4.1.1R, apportions a significant responsibility, within the description of the *significant management function*, to a *senior manager* of a significant business unit; or~~
- ~~(2) undertakes *proprietary trading*.~~

10A.9.2 G ~~The *FCA* anticipates that there will be only a few *firms* needing to seek approval for an individual to perform the *significant management function* set out in *SUP* 10A.9.1R(1). In most *firms*, those approved for the *FCA governing functions*, *FCA required functions* and, where appropriate, the *systems and controls function*, are likely to exercise all the significant influence at senior management level.~~

10A.9.3 G ~~A *proprietary trader* undertakes activities with the *firm's money* and has the ability to commit the *firm*. By virtue of this role, all *proprietary traders* have potential to be able to exercise significant influence on the *firm* for the purposes of the definition of *significant-influence function*. Therefore, it is the *FCA's* expectation that all *firms* will assess all their *proprietary traders* to ascertain the ones for whom approval is required.~~

10A.9.4 G ~~The scale, nature and complexity of the *firm's* business may be such that a *firm* apportions, under *SUP* 10A.9.1R(1), a significant responsibility to an individual who is not approved to perform the *FCA governing functions*, *FCA required functions* or, where appropriate, the *systems and controls function*. If so, the *firm* should consider whether the functions of that individual fall within the *significant management function*. For the purposes of the description of the *significant*~~

~~management functions, the following additional factors about the firm should be considered:~~

- ~~(1) the size and significance of the firm's business in the United Kingdom; for example, a firm carrying on designated investment business may have a large number of approved persons (for example, in excess of 100 individuals);~~
- ~~(2) the number of regulated activities carried on, or proposed to be carried on, by the firm and (if relevant) other members of the group;~~
- ~~(3) its group structure (if it is a member of a group);~~
- ~~(4) its management structure (for example, matrix management); and~~
- ~~(5) the size and significance of its international operations, if any.~~

10A.9.5 G ~~When considering whether a business unit is significant, the firm should take into account all relevant factors in the light of the firm's current circumstances and its plans for the future, including:~~

- ~~(1) the risk profile of the unit; or~~
- ~~(2) its use or commitment of a firm's capital; or~~
- ~~(3) its contribution to the profit and loss account; or~~
- ~~(4) the number of employees or approved persons in the unit; or~~
- ~~(5) the number of customers of the unit; or~~
- ~~(6) any other factor which makes the unit significant to the conduct of the firm's affairs so far as relating to the regulated activity.~~

10A.9.6 G ~~The question may arise whether a manager who is based overseas will be performing the significant management function under SUP 10A.9.9R and should, therefore, be an FCA approved person. This is especially true where the firm operates matrix management. The fact there is a person performing the apportionment and oversight function, and who has responsibility for activities subject to regulation by the FCA, may have a bearing on this. It is a factor to take into account when assessing the likely influence of the overseas manager.~~

10A.9.7 G ~~Generally, in relation to a branch of a firm, or a firm which is part of an overseas group, where an overseas manager is responsible for strategy, he will not need to be approved for the significant management function. However, where he is responsible for implementing that strategy in the United Kingdom, and has not delegated that~~

responsibility to a *senior manager* in the *United Kingdom*, he is likely to be performing that *FCA controlled function*.

- 10A.9.8 G See also ~~SUP 10A.7.3G to SUP 10A.7.6G~~ in relation to matrix management.
- Significant management function (CF29)
- 10A.9.9 R The *significant management function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit that:
- (1) carries on *designated investment business* or other activities not falling within (2) to (4);
  - (2) [deleted]
  - (2A) carries on *credit-related regulated activity*;
  - (3) makes material decisions on the commitment of a *firm's* financial resources, its financial commitments, its assets acquisitions, its liability management and its overall cash and capital planning;
  - (4) processes confirmations, payments, settlements, insurance claims, *client money* and similar matters.
- 10A.9.10 R The *significant management function* also includes the function of acting as a *proprietary trader*.
- 10A.9.11 R The *significant management function* does not include any of the activities described in any other *FCA controlled function* if that other *controlled function* applies to the *firm*.
- 10A.9.12 G A *senior manager* carrying on the *significant management function* under SUP 10A.9.9R with significant responsibility for a significant business unit that carries on activities other than *designated investment business* for the purposes of SUP 10A.9.9R(1) could, for example, be the head of a unit carrying on the activities of: personal lending, corporate lending, salvage or loan recovery, or *proprietary trading*, or a member of a committee (that is, a *person* who, together with others, has authority to commit the *firm*) making decisions in these functions.
- 10A.9.13 G A *proprietary trader* also undertakes activities which may have a significant influence on the *firm*. Such activities may require approval for CF29 under SUP 10A.9.10R.
- 10A.9.14 G A *firm* carrying on *insurance distribution activity*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance distribution activity* (MIPRU 2.2.1R). The *firm*



may allocate this responsibility to the *person* performing the *significant management function*.

- 10A.9.15 G ~~Where the *person* performing the *significant management function* is also responsible for the *firm's insurance distribution activity*, the words “(insurance distribution)” will be inserted after this *FCA controlled function* (see *MIPRU 2.2.5G*).~~

## 10A.10 Customer-dealing functions

### Introduction

- 10A.10.1 R *SUP* 10A.10 applies with respect to activities carried on from an establishment maintained by the *firm* ~~(or by its appointed representative)~~ in the *United Kingdom*.

### The basic rule about the customer function

...

- 10A.10.6 G ...

10A.10.6A R A function is only part of the *customer function* if it is:

- (1) carried out for an *appointed representative* of an *SMCR firm*; or
- (2) otherwise performed under an *arrangement* under section 59(2) of the *Act* (Approval for particular arrangements) entered into by an *appointed representative* of an *SMCR firm*.

- 10A.10.6B G Section 59(2) of the *Act* covers a *controlled function* performed under an *arrangement* entered into by a contractor of a *firm* in relation to the *carrying on* by the *firm* of a *regulated activity*. Section 59(2) is reflected in *SUP* 10A.3.1R(2) (Provisions related to the *Act*).

### Customer function (CF 30)

- 10A.10.7 R The *customer function* is the function of:

...

- (6) ~~acting in the capacity of an *investment manager* and carrying on functions connected to this; [deleted]~~

...

...

**10A.12 Procedures relating to FCA-approved persons**

Forms

- 10A.12.1 G The forms listed in *SUP* 10A.12.2G are referred to in *SUP* 10A.12 (Procedures relating to FCA-approved persons) to ~~*SUP* 10A.17 (Further questions)~~ *SUP* 10A.16 (How to apply for approval and give notifications).
- 10A.12.2 G Table: FCA-approved persons forms

Form		Purpose	Handbook requirement
the relevant Form A	The relevant online form on the <i>FCA</i> and <i>PRA's</i> online notification and application system or the form in <i>SUP</i> 10A Annex 4D (See Note) <i>SUP</i> 10C Annex 3D	Application to perform controlled functions under the approved persons regime	<i>SUP</i> 10A.13.3D
...			
Form E	The relevant online form on the <i>FCA</i> and <i>PRA's</i> online notification and application system system or the form in <i>SUP</i> 10A Annex 8D (See Note) <i>SUP</i> 10C Annex 7D	Internal transfer of an approved person	<i>SUP</i> 10A.14.4D
<p>Note (1): The form in the <i>SUP</i> annex shown is to be used by a firm whose <i>Part 4A</i> permission covers only credit related regulated activities, and by other firms only in the event of a failure of the information technology systems used by the <i>FCA</i>. See the relevant "Handbook requirement".</p>			
<p>Note (2): Where <i>SUP</i> 10A.1.16BR (appointed representative of an SMCR firm) applies, the version of the form to be used is the one required by <i>SUP</i> 10C (FCA senior managers regime for approved persons in SMCR firms).</p>			

...

**10A.13 Application for approval and withdrawing an application for approval**

...

How to apply for approval

...

- 10A.13.3B D ~~A firm must not use Form A (shortened form) if:~~
- (1) ~~the firm is a MiFID investment firm (except a credit institution); and~~
  - (2) ~~SUP 10A.14.4BD applies to that application. [deleted]~~

- 10A.13.4A G ~~When a MiFID investment firm (except a credit institution) notifies the FCA of a change using Form A or Form E, they must also submit the MiFID Article 4 APER Information Form. The details can be found in SUP 10A.14.4BD. [deleted]~~

Who should make the application?

- 10A.13.5 G (1) In accordance with section 60 of the Act (Applications for approval), applications must be submitted by, or on behalf of, the *firm* itself, not by:
- (a) the *FCA candidate*; or
  - (b) ~~(where the FCA candidate works for the firm's parent undertaking or holding company) by the firm's parent undertaking or holding company~~ the appointed representative.
- (2) Usually this will be the *firm* that is employing the *FCA candidate* to perform the *FCA controlled function*. Where a *firm* has outsourced the performance of an *FCA controlled function*, the details of the outsourcing determine where responsibility lies and whom the *FCA* anticipates will submit *FCA approved persons* application forms. SUP 10A.13.6G describes some common situations. The *firm* which is outsourcing is referred to as "A" and the *person* to whom the performance of the *FCA controlled function* has been outsourced, or which makes the arrangement for the *FCA controlled function* to be performed, is referred to as "B". In each situation, A must take reasonable care to ensure that, in accordance with section 59(2) of the Act, no *person* performs an *FCA controlled function* under an arrangement entered into by its contractor in relation to the

carrying on by A of a *regulated activity*, without approval from the *FCA*. See also *SYSC 8.1.1R*. [deleted]

10A.13.6 G Outsourcing arrangements [deleted]

<b>Outsourcing arrangements</b>		<b>Submitting form</b>
<i>Firm A to firm B</i>	The <i>FCA</i> will consider A to have taken reasonable care if it enters into a contract with B under which B is responsible for ensuring that the relevant <i>FCA controlled functions</i> are performed by <i>FCA-approved persons</i> , and that it is reasonable for A to rely on this	<i>Firm B</i> submits <i>FCA-approved persons</i> forms on behalf of <i>firm A</i>
Outsourcing by A to B (both being a member of the same <i>United Kingdom</i> group and each having its registered office in the <i>United Kingdom</i> )	See <i>SUP 10A.3.4G</i>	See <i>SUP 15.7.8G</i>
(i) A to B, where B is a non- <del>authorised</del> person not part of the same group as A (ii) A to B, where A is a <i>branch</i> of an <i>overseas firm</i> in the <i>United Kingdom</i> , and B is an <i>overseas undertaking</i> of the same <i>group</i> (iii) A to B, where A is a UK- <del>authorised</del> subsidiary of an <i>overseas firm</i> and B is an <i>overseas undertaking</i> of the same <i>group</i>	Responsibility for (as opposed to the performance of) any activity outsourced to B will remain with A. See <i>SYSC 8</i>	A ensures that an individual approved by the <i>FCA</i> under a controlled function that is a <i>significant influence function</i> has responsibility for the outsourced arrangement and A submits a form in relation to that individual

...

**10A.14 Changes to an FCA-approved person's details**

## Moving within a firm

...

10A.14.4 D (1) A *firm* must use Form E where an *approved person* is both ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more *FCA controlled functions* ~~within~~ in relation to the same *firm* or in relation to a firm in the same group.

(2) A *firm* must not use Form E if:

...

(c) any of the following apply (where applicable):

...

(ii) ...

in relation to any:

(iii) ...

...

(iv) *controlled function* that they are continuing to perform ~~for~~ in relation to that *firm* or a *firm* in the same *group*.

...

10A.14.4A G (1) ~~The MiFID authorisation and management body change notification ITS requires that MiFID investment firms (except credit institutions) submit the Annex III information on the ESMA template available at <https://www.fca.org.uk/publication/forms/mifid-changes-management-body-form.docx> ('Annex III template') where there is a change to a member of the *management body* or a *person* who effectively directs the business.~~

(2) ~~MiFID investment firms (except credit institutions) need to submit this Annex III template within ten business days of the change in the online notification and application system (also known as Connect).~~

(3) ~~SUP 10A.14.4BD explains how this requirement fits in with the requirement to submit a Form A or Form E. [deleted]~~

- 10C.14.4AA G (1) ~~The MiFID authorisation and management body change notification ITS requires that a person applying to be a MiFID investment firm (except a credit institution) notify the appropriate regulator of information about members of its management body by filling in the template set out in Annex II of the MiFID authorisation and management body change notification ITS.~~
- (2) This applies whether:
- (a) the person is applying for authorisation; or
- (b) the person is a firm applying for a variation of its permission that would turn it into a MiFID investment firm.
- (3) The requirement in SUP 10A.14.4BD to fill in the MiFID Article 4 SMR Information Form along with a Form A or Form E does not apply. [deleted]
- 10A.14.4B D Where:
- (1) ~~there is a change to a member of the management body or person who directs the business, of a MiFID investment firms (except a credit institutions) that the firm must notify to the appropriate regulator under Annex III of the MiFID authorisation and management body change notification ITS;~~
- (2) ~~that change also requires the firm to apply for approval for that member or person to perform an FCA-designated senior management function;~~
- ~~the firm must submit to the FCA the completed form found in SUP 10A Annex 10D (MiFID Article 4 SMR Information Form) at the same time as submitting the Form A and/or or Form E about the candidate. [deleted]~~
- 10A.14.4C G ~~MiFID investment firms (except credit institutions) who submit:~~
- (1) ~~Form A and/or E; and~~
- (2) ~~the MiFID Article 4 SMR Information Form~~
- ~~about a candidate can complete the Annex III template outlined in SUP 10A.14.4AG(1) by cross-referring to any information required by the template that has been included in the relevant Form A or Form E. The template should be annexed to the relevant Form A or Form E. [deleted]~~

...

## Moving between firms

- 10A.14.6 G If it is proposed that an *FCA-approved person* will no longer be performing an *FCA controlled function* under an *arrangement* entered into by ~~one firm or one of its contractors~~ the appointed representative of one principal, but will be performing the same or a different *FCA controlled function* under an *arrangement* entered into by ~~a new firm or one of its contractors~~ the appointed representative of a new principal (whether or not the new ~~firm~~ principal is in the same *group* as the old ~~firm~~ principal and whether or not the appointed representative is the same), the new ~~firm~~ principal will be required to make a fresh application for the performance of the *FCA controlled function* by that *person*.

...

## Ceasing to perform an FCA controlled function

- 10A.14.8 R ...
- (2) If:
- (a) the *firm* is also making an application for approval for that *approved person* to perform a *controlled function* ~~within~~ in relation to the same firm or a firm in the same group; and

...

...

- 10A.14.9A G (1) ~~The MiFID authorisation and management body change notification ITS requires that a MiFID investment firm (except a credit institution) submit the information in Annex III of the MiFID authorisation and management body change notification ITS on the ESMA template where there is a change to a member of the management body or a person who effectively directs the business.~~
- (2) ~~This means that a MiFID investment firm required to notify the FCA under (1) may also need to submit the Annex III information along with the Form C or Form E. [deleted]~~
- 10A.14.10 R (1) A *firm* must notify the *FCA* as soon as practicable after it becomes aware, or has information which reasonably suggests, that it will submit a qualified Form C in respect of an *FCA-approved person*.
- (2) Form C is qualified if the information it contains:

- (a) relates to the fact that the *firm* or the *appointed representative* has dismissed, or suspended, the *FCA-approved person* from its employment; or
- (b) relates to the resignation by the *FCA-approved person* while under investigation by the *firm*, the *appointed representative*, the *FCA* or any other *regulatory body*; or
- (c) otherwise reasonably suggests that it may affect the *FCA's* assessment of the *FCA-approved person's* fitness and propriety.

...

10A.14.13 G A *firm* can submit Form C or Form E ~~and the MiFID Article 4 APER Information Form~~ to the *FCA* in advance of the cessation date. When a *person* ceases the arrangement under which they perform an *FCA controlled function*, they will automatically cease to be an *FCA-approved person* in relation to that *FCA controlled function*. A *person* can only be an *FCA-approved person* in relation to a specific *FCA controlled function*. Therefore, a *person* is not an *FCA-approved person* during any period between ceasing to perform one *FCA controlled function* (when they are performing no other *FCA controlled function*) and being approved in respect of another *FCA controlled function*.

...

#### Changes to an approved person's personal details

10A.14.15 R If an *FCA-approved person's* title, name or national insurance number changes, the ~~*firm* for which the *person* performs an *FCA controlled function*~~ *authorised approved person employer* must notify the *FCA* on Form D (*SUP* 10C Annex 6R) of that change within seven *business days* of the *firm* becoming aware of the matter.

...

10A.14.21 G (1) If, in relation to a *firm* which has completed the relevant Form A (~~*SUP* 10A Annex 4D~~) (*SUP* 10C Annex 3D), any of the details relating to arrangements and *FCA controlled functions* are to change, the *firm* must notify the *FCA* on Form D (*SUP* 10C Annex 6R).

...

...

## 10A.15 References and accurate information

### References



- 10A.15.1 G (1) SYSC 22 (Regulatory references) says that if a *firm* (A):
- (a) is considering appointing a *person* (P) to perform any *controlled function* or certain other functions;
  - (b) requests a reference from a *firm* (B) that is P's current or former *employer*; and
  - (c) indicates to B the purpose of the request;
- B should, as soon as reasonably practicable, give a reference to A.
- (2) ~~This applies even if A is a *firm* to which SUP 10C (FCA senior managers regime for approved persons in SMCR firms)) applies rather than this chapter. [deleted]~~
- ...
- (4) SYSC 22.8.3R and SYSC 22.8.4R (Appointed representatives) say that this applies to B's *appointed representatives* as well as to B.

...

The need for complete and accurate information

- 10A.15.4 G The obligations to supply information to the *FCA* under either *SUP* 10A.14.8R or *SUP* 10A.14.10R apply notwithstanding any agreement (for example a 'COT 3' Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS)) or any other arrangements entered into by a *firm* or its *appointed representative* and an *employee* upon termination of the *employee's* employment. A *firm* should not (and should ensure that its *appointed representatives* do not) enter into any such arrangements or agreements that could conflict with its obligations under this section.

...

## 10A.16 How to apply for approval and give notifications

- 10A.16.1 D (1) This direction applies to an application under Form A or Form E.
- (2) ~~Subject to (2A), an~~ An application by a *firm* must be made by submitting the Form online at fea.org.uk using the form specified on the *FCA's* and *PRA's* online notification and application system in accordance with the requirements in *SUP* 10C.15 (Forms and other documents and how to submit them to the *FCA*) about the submission of those Forms.

- (2A) ~~An application by a firm whose application for permission or whose Part 4A permission covers only credit-related regulated activities must be made using the form in SUP 10A Annex 4 or SUP 10A Annex 8 and must be submitted in the way set out in SUP 15.7.4 R to SUP 15.7.9G (Form and method of notification). [deleted]~~
- ...
- (4) ~~Where a firm is obliged to submit an application online under (2), if the information technology systems used by the FCA fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must use the form in SUP 10A Annex 4D or SUP 10A Annex 8D and submit it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). [deleted]~~
- (5) ~~An application by a firm in relation to a controlled function to which SUP 10A.1.16BR (appointed representative of an SMCR firm) applies must be made in accordance with SUP 10C.15 (Forms and other documents and how to submit them to the FCA) and not this section. [deleted]~~
- 10A.16.2 R (1) This rule applies to a notification under Form B, Form C or Form D.
- (2) A notification must be made in accordance with SUP 10A.16.1D, except that the annexes in which the forms are to be found are ~~SUP 10C Annex 5R or SUP 10C Annex 6R~~, rather than the Annexes mentioned in SUP 10A.16.1D the requirements in SUP 10C.15 (Forms and other documents and how to submit them to the FCA) about the submission of those Forms.
- (3) ~~A notification by a firm in relation to a controlled function to which SUP 10A.1.16BR (appointed representative of an SMCR firm) applies must be made in accordance with SUP 10C.15 (Forms and other documents and how to submit them to the FCA) and not this section. [deleted]~~
- 10A.16.2A R ~~SUP 10A.16.2R(3) rule also applies to Form B in relation to a controlled function to which SUP 10A.1.16BR (appointed representative of an SMCR firm) applies. [deleted]~~
- 10A.16.3 G ~~If the information technology systems used by the FCA fail and online submission is unavailable for 24 hours or more, the FCA and PRA will endeavour to publish a notice on their websites confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 10A.16.1D(4) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used. [deleted]~~

- 10A.16.4 G ~~Where SUP 10A.16.1D(4) or the equivalent situation under SUP 10A.16.2R applies to a *firm*, GEN 1.3.2R (Emergency) does not apply. [deleted]~~
- 10A.17 Further questions [deleted]**
- 10A.17.1 G ~~A list of frequently asked questions and answers is at SUP 10A Annex 1.~~
- 10A.17.2 G ~~If the *firm* or its advisers have further questions, they should contact the FCA's Contact Centre (see SUP 10A.12.6G).~~
- ...

Delete the following Annexes. The deleted text of each Annex is not shown.

**10A Annex 1G Frequently asked questions [deleted]**

**10A Annex 2G Approved persons regime: summary of forms and their use for applications for approval to perform an FCA-controlled function [deleted]**

**10A Annex 4D Form A: Application to perform controlled functions under the approved person regime [deleted]**

**10A Annex 8D Form E: Internal transfer of an approved person [deleted]**

Amend the following as shown.

**10C FCA senior managers regime for approved persons in SMCR firms**

...

**10C.1 Application**

...

Appointed representatives

10C.1.7 R This chapter does not deal with an *approved person* who is approved under ~~SUP 10A.1.16BR (Appointed representatives)~~ SUP 10A (FCA Approved Persons in Appointed Representatives).

10C.1.8 G (1) ~~SUP 10A.1.15R to SUP 10A.1.16DG (Appointed representatives) deal~~ SUP 10A (FCA Approved Persons in Appointed Representatives) deals with the *approved persons* regime for *appointed representatives* of *SMCR firms*.

...

(5) Both this chapter and SUP 10A deal with an appointed representative that has a limited permission to carry on a regulated activity prescribed for the purposes of section 39(1E)(a) of the Act.

...

**10C.3 General material about the definition of controlled functions**

...

Types of controlled function

...

10C.3.4 G The *FCA* has (in SUP 10A (FCA Approved Persons in Appointed Representatives)) specified *controlled functions* for *SMCR firms* that are not *designated senior management functions*. (~~See SUP 10C.1.7R to SUP 10C.1.8G (Appointed representatives)~~).

...

**10C.4 Specification of functions**

...

10C.4.3 R Table of FCA-designated senior management functions for SMCR firms

Type	SMF	Description of FCA controlled function
<i>FCA governing functions</i>	<u>SMF 1</u>	<u>Chief executive function</u>
	SMF 3	...
	<u>SMF 7</u>	<u>Group entity senior manager function</u>

	<u>SMF 9</u>	<u>Chair of the governing body function</u>
	<u>SMF 10</u>	<u>Chair of the risk committee function</u>
	<u>SMF 11</u>	<u>Chair of the audit committee function</u>
	<u>SMF 12</u>	<u>Chair of the remuneration committee function</u>
	SMF 13	...
	<u>SMF 14</u>	<u>Senior independent director function</u>
	SMF 15	...
	<u>SMF 19</u>	<u>Head of third country branch function</u>
	SMF 27	...
<i>FCA required functions</i>	...	...
	SMF 23b	...
	<u>SMF 29</u>	<u>Limited scope function</u>
Other high-level management functions	SMF 21	...
<u>Systems and controls functions</u>	<u>SMF 2</u>	<u>Chief finance officer function</u>
	<u>SMF 4</u>	<u>Chief risk officer function</u>
	<u>SMF 5</u>	<u>Head of internal audit function</u>
	<u>SMF 24</u>	<u>Chief operations function</u>

10C.4.4 G As described in SUP 10C.1.7R to SUP 10C.1.8G (Appointed representatives), SUP 10A (FCA Approved Persons in Appointed Representatives) specifies certain other *controlled functions* for SMCR firms.

...

#### 10C.4A FCA governing functions: General

10C.4A.1 G ...

Sole traders

- 10C.4A.2      G      (1)      An individual *sole trader* themselves will not need approval to perform any of the *governing functions*. Therefore the *governing functions* do not apply to a *sole trader* with no employees.
- (2)      It is possible, although perhaps not likely in practice, that the *governing functions* could apply to staff working for the *sole trader*.
- (3)      In particular, it is possible for the *sole trader* to give sufficient authority to a staff member that the staff member meets the *Glossary* definition of a *director*.
- (4)      This might happen, for example, if the *sole trader's* business is so large that the *sole trader* sets up a *governing body* to run it.

## 10C.5            FCA governing functions: Executive

...

Executive director function: Adjustment of definition for non-directive friendly societies

- 10C.5.9        R      ...
- (3)      The term director also includes;
- (a)      each person on the firm's governing body; and
- (b)      (in the case of an FCA-authorised firm) the chief executive.
- ...
- 10.5.10        G      ...
- (3)      The individual in (2) may, for example, have the title of chief executive or similar. The individual would (subject to SUP 10C.5.11G) have to be an FCA-approved person under SUP 10C.5.9R.
- 10C.5.11       G      (1)      In practice, the FCA expects that most non-directive friendly societies will be PRA-authorised persons.
- (2)      Where that is the case, the executive director function will often not apply (see SUP 10C.4A.1G).
- ...
- 10C.5.18       G      ...

Partner function: When partners and members do not require approval

- 10C.5.19 R (1) This rule applies to an SMCR firm that is an FCA-*authorised person* to which the *partner function* applies.
- (2) If the principal purpose of the *firm* is to carry on one or more regulated activities, each person in SUP 10C.5.14R to SUP 10C.5.16R (a “partner”) performs the *partner function*.
- (3) If the principal purpose of the *firm* is other than to carry on regulated activities:
- (a) a partner performs the *partner function* to the extent only that they have responsibility for a *regulated activity*; and
- (b) a partner in a *firm* will be taken to have responsibility for each *regulated activity* except where the *firm* has apportioned responsibility to another partner or group of partners.

- 10C.5.20 G (1) This paragraph SUP 10C.5.20G describes some of the combined effects of SUP 10C Annex 1 2.1R and SUP 10C.5.19R.
- (2) A partner whose only *regulated activities* are incidental to their professional services, in a *firm* whose principal purpose is to carry on other than *regulated activities*, need not be an *FCA-approved person*.
- (3) What amounts to the principal purpose of the *firm* is a matter of fact in each case having regard to all the circumstances, including the activities of the *firm* as a whole.
- (4) Any *regulated activities* which such a partner carries on are not within the description of the *partner function*.

Chief executive function (SMF1)

- 10C.5.21 R (1) The *chief executive function* is the function of acting in the capacity of a *chief executive* of a *firm*.
- (2) This function does not apply to a *non-directive friendly society*.

10C.5.22 G This function is having the responsibility, alone or jointly with one or more others, under the immediate authority of the *governing body* for the conduct of the whole of the business (or relevant activities) of the *firm*.

- 10C.5.23 G (1) A *person* performing the *chief executive function* may be a member of the *governing body* but need not be.

- (2) If the chairman of the governing body is also the chief executive, they will be discharging this function.
- (3) If the responsibility is divided between more than one person but not shared, there is no person exercising the chief executive function.
- (4) But if that responsibility is discharged jointly by more than one person, each of those persons will be performing the chief executive function.

Head of third country branch function (SMF 19)

- 10C.5.24 R (1) This rule applies to an overseas SMCR firm.
- (2) The head of third country branch function is the function of having responsibility alone or jointly with others, for the conduct of all activities of the United Kingdom branch of the firm which are subject to the UK regulatory system.

**10C.5A FCA governing functions: Oversight**

...

10C.5A.6 R ...

Chair of the governing body function (SMF9)

- 10C.5A.7 R The chair of the governing body function is the function of having responsibility for chairing, and overseeing the performance of the role of, the governing body of the firm.

Chair of the risk committee function (SMF10)

- 10C.5A.8 R The chair of the risk committee function is the function of having responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the risk management systems, policies and procedures of the firm, including where applicable to the firm, a committee established in accordance with the risk control requirements for SMCR firms.

Chair of the audit committee function (SMF11)

- 10C.5A.9 R The chair of the audit committee function is the function of having responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the internal audit system of the firm including where applicable to the firm, a committee established in accordance with the internal audit requirements for SMCR firms.



Chair of the remuneration committee function (SMF12)

- 10C.5A.10 R The *chair of the remuneration committee function* is the function of having responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the design and the implementation of the *remuneration* policies of a *firm*, including where applicable to the *firm*, a committee established in accordance with:
- (1) *SYSC 19A.3.12R (Remuneration Principle 4: Governance);*
  - (2) *SYSC 19B.1.9R (AIFM Remuneration Principle 3: Governance);*
  - (3) *SYSC 19C.3.12 R (Remuneration Principle 4: Governance);*
  - (4) *SYSC 19D.3.12R (Remuneration Principle 4: Governance);*
  - (5) *SYSC 19E.2.9R (UCITS Remuneration Principle 3: Governance).*

Senior independent director function (SMF14)

- 10C.5A.11 R The *senior independent director function* is the function of performing the role of a senior independent director, and having particular responsibility for leading the assessment of the performance of the person performing the *chair of the governing body function*.

**10C.5B** **FCA governing functions: Group entities**Group entity senior manager function (SMF7)

- 10C.5B.1 R (1) The *group entity senior manager function* is the function of having a significant influence on the management or conduct of one or more aspects of the affairs of a *firm* in relation to its *regulated activities*.
- (2) This *controlled function* does not include having such influence in the course of performance of another *designated senior management function* for that *firm*.
- (3) This *controlled function* only applies if it is performed by:
- (a) a *person* employed by; or
  - (b) an *officer* of:  
any of the following:
  - (c) a *parent undertaking* or *holding company* of the *firm*; or

- (d) another undertaking which is a member of the firm's group.

Basis on which group entity senior manager function is included

- 10C.5B.2      G      (1)      This provision explains the basis on which the group entity senior manager function is included as a controlled function.
- (2)      The basic position is set out in SUP 10C.3.9G. As is the case with all controlled functions in this chapter, the definition of the group entity senior manager function is subject to the overriding provisions in SUP 10C.3.6R, which sets out the requirements of section 59(1) and (2) of the Act.
- (3)      This means that unless the firm has an arrangement permitting the performance of these roles by the persons concerned, these persons will not be performing the group entity senior manager function.
- (4)      Therefore, the FCA accepts that there will be cases in which a person performing the role described in SUP 10C.5B.1R will not require approval.
- (5)      However where there is such an arrangement the function may apply.

When the group entity senior manager function applies

- 10C.5B.3      G      (1)      Individuals in the management of a group in which a firm is a subsidiary do not automatically come within the group entity senior manager function because their job relates to the firm.
- (2)      The FCA does not aim or expect to approve individuals to perform this function for every firm to which the function potentially applies under SUP 10C Annex 1 (What functions apply to what type of firm) just because the firm is part of a group.
- (3)      The FCA would not consider it to be unusual for there to be no one performing the group entity senior manager function for a firm that is a subsidiary in a group.

- 10C.5B.4      G      Whether someone performs the group entity senior manager function should be assessed on a case-by-case basis. The factors to be taken into account include:
- (1)      the organisational structures of the group and the firm;
- (2)      the split of key responsibilities between the group and firm boards and senior management; and

- (3) whether *SMF managers* based in the *firm* have an appropriate level of authority within the group to ensure that the *firm* complies with the requirements of the *regulatory system*.
- 10C.5B.5      G      (1) An individual based elsewhere in a group whose responsibilities in relation to a subsidiary in the group that is a *firm* are limited to developing the group's overall strategy is unlikely to be performing the *group entity senior manager function*.
- (2) The function is more likely to apply to individuals who are directly responsible for implementing the group's strategy in the *firm*.
- (3) Therefore, if an individual based elsewhere in the group:
- (a) is directly responsible for taking decisions about how the *firm* should conduct its *regulated activities*; and
- (b) has not delegated this responsibility to an *SMF manager* based in the *firm*;
- it is likely that they will require approval to perform the *group entity senior manager function* (or, as described in *SUP* 10C.5B.6G, another *designated senior management function*).
- (4) If however the *firm's governing body* has sufficient discretion in how it applies and responds to proposals coming from group committees or individuals based in parent entities, approval would generally not be required. In this case the individual will be carrying on a group-level function rather than performing a function on behalf of the *firm*.
- (5) So, where:
- (a) a *firm* has in place the required *SMF managers* based in the *firm*; and
- (b) those *SMF managers* are effective and have sufficient control over the *firm*;
- the *FCA* would not routinely expect the *firm* to have *persons* performing the *group entity senior manager function* in place.
- 10C.5B.6      G      (1) *SUP* 10C.5B.1R(2) means that an individual who is approved to perform another *designated senior management function* for a *firm* will often not need to be approved to perform the *group entity senior manager function* for that *firm* as well.
- (2) So for example if the individual has responsibility for the *firm's* finances they may be performing the *chief finance officer function*. If that is the case the individual will not be performing

the group entity senior manager function by carrying out the functions of a chief finance officer.

- (3) Similarly an individual who is approved to perform another designated senior management function for the firm may have influence that comes from holding that post in matters falling outside the core duties of that post. For example a chief finance officer of a firm will have important input into decisions that fall outside the core financial control function. That influence does not mean that they are performing the group entity senior manager function.

10C.5B.7      G      The group entity senior manager function is potentially relevant:

- (1) whether the individual is located in or outside the United Kingdom; and  
 (2) whether the group is headquartered in the United Kingdom or overseas.

10C.5B.8      G      (1) The parent of a subsidiary firm cannot itself perform the group entity senior manager function.

- (2) A shareholder in the parent will also not perform this function unless the shareholder is also a director, officer or employee of the parent and is exerting significant influence over the firm through that role.

## **10C.6      FCA-required functions**

Compliance oversight function (SMF16)

10C.6.1      R      The *compliance oversight function* is the function of acting in the capacity of a *person* who is allocated the function in:

...

(4) SYSC 6.1.4CR; ~~or~~

(5) SYSC 3.2.8R - ; or

(6) (for a full-scope UK AIFM) article 61(3)(b) of the AIFMD level 2 regulation.

...

10C.6.4      R      ...

Limited scope function (SMF29)

10C.6.5 R The *limited scope function* is the function of acting in the capacity of a *person* responsible for the apportionment function and/or the oversight function set out in SYSC 4.4.5R.

10C.6.6 G The fact that there is a *person* performing the *limited scope function*, and who has responsibility for activities subject to regulation by the *FCA*, may have a bearing on whether a manager who is based overseas will be performing an *FCA controlled function*. It is a factor to take into account when assessing the likely influence of the overseas manager.

## **10C.6A Systems and controls functions: Finance, risk and internal audit**

### Introduction

10C.6A.1 G The *FCA-designated senior management functions* in this section apply even if the *firm*:

- (1) is not required by the *regulatory system* to allocate any of these roles to someone; or
- (2) is not subject to any requirements of the *regulatory system* dealing with the management of the matters referred to in SUP 10C.6A.3R to SUP 10C.6A.6R.

### Seniority

10C.6A.2 G The *FCA* expects a *firm* to ensure that a person performing a function in this section for a *firm* has sufficient expertise and authority to perform that function effectively. A *director* or *senior manager* would meet this expectation.

### Chief finance officer function (SMF2)

10C.6A.3 R The *chief finance officer function* is the function of having responsibility for management of the financial resources of the *firm*, including reporting directly to the *governing body* of the *firm* in relation to its financial affairs.

### Chief risk officer function (SMF4)

10C.6A.4 R The *chief risk officer function* is the function of having responsibility for overall management of the risk controls of a *firm*, including:

- (1) the setting and managing of the *firm's* risk exposures; and
- (2) reporting directly to the *governing body* of the *firm* in relation to its risk management arrangements.

- 10A.6A.5      G      (1)      Risk controls systems include ones designed to deal with the kinds of matters in the *risk control requirements for SMCR firms*.
- (2)      However SUP 10C.6A.4R applies even if the provisions in (1) do not apply to the *firm*.

Head of internal audit function (SMF5)

- 10C.6A.6      R      The *head of internal audit function* is the function of having responsibility for management of the internal audit function of the *firm*, including reporting directly to the *governing body* of the *firm* on the internal audit function.
- 10A.6A.7      G      (1)      Internal audit covers the kinds of matters in the *internal audit requirements for SMCR firms*.
- (2)      However SUP 10C.6A.6R applies even if the provisions in (1) do not apply to the *firm*.

**10C.6B**      **Systems and controls functions: Other**

Seniority

- 10C.6B.1      G      The *FCA* expects a *firm* to ensure that a person performing a function in this section for a *firm* has sufficient expertise and authority to perform that function effectively. A *director* or *senior manager* would meet this expectation.

The chief operations function (SMF24)

- 10C.6B.2      R      (1)      The *chief operations function* is the function of having overall responsibility for managing all or substantially all the internal operations or technology of the *firm* or of a part of the *firm*.
- (2)      A *person* has overall responsibility for managing all or substantially all the matters described in (1) for the purposes of this *rule* even if one or more other *persons* have responsibility for:
- (a)      the matters to which the *internal audit requirements for SMCR firms*, the *compliance requirements for SMCR firms* or the *risk control requirements for SMCR firms* relate; or
- (b)      the matters to which any of the *required functions* relate; or

- (c) any part of the *firm* responsible for advising other parts of the *firm*.
- (3) (2) applies to a *firm* whether or not the requirements in (2)(a) or the functions in (2)(b) apply to it.
- (4) The *chief operations function* does not include the function of acting in the capacity of a *chief executive* of a *firm*.
- (5) A *person* (P) does not perform the *chief operations function* by managing the internal operations or technology of a part of a *firm* that carries out other functions (such as a part of the *firm* that carries on *regulated activities with clients*) as part of P's function of managing that part of the *firm*.
- 10C.6B.3      G      (1) In SUP 10C.6B.2R technology refers principally to the *firm*'s information and communications technology (ICT) systems and services.
- (2) Those services include but may not be necessarily limited to the mechanisms and networks that support the operations of a *firm*, including data entry, data storage, data processing and reporting services, but also monitoring, business and decision support services.
- 10C.6B.4      G      The *chief operations function* may include but not necessarily be limited to areas such as:
- (1) business continuity (including responsibility for compliance with SYSC 4.1.6R and SYSC 4.1.7R (Business continuity), if those *rules* apply to the *firm*);
- (2) cybersecurity;
- (3) information technology;
- (4) internal operations;
- (5) operational continuity, resilience and strategy;
- (6) outsourcing, procurement and vendor management; and
- (7) management of services shared with other *group* members.
- 10C.6B.5      G      If:
- (1) a *firm* does not have anyone who performs the *chief operations function*; but
- (2) SYSC 26 (Senior managers and certification regime: Overall and local responsibility) applies to the *firm*;

the firm should allocate responsibility for the functions in SUP 10C.6B.4G among its SMF managers under SYSC 26.

- 10C.6B.6 G If a firm is required to have a management responsibilities map, the map should include the functions in SUP 10C.6B.4G, whether or not the firm has someone who performs the chief operations function.
- 10C.6B.7 G The table in SUP 10C.6B.8G gives examples of how the chief operations function applies.
- 10C.6B.8 G Table: Examples of how the chief operations function applies

<u>Example</u>	<u>Comments</u>
<p><u>(1) Firm A has the following three individuals.</u></p> <ul style="list-style-type: none"> <li>- <u>Chief Operating Officer (COO);</u></li> <li>- <u>Chief Information &amp; Technology Officer (CITO);</u></li> <li>- <u>Head of Human Resources (Head of HR).</u></li> </ul> <p><u>The Head of HR and the CITO report to the COO.</u></p>	<p><u>The COO is the only person performing the chief operations function.</u></p>
<p><u>(2) Firm A has the following two individuals:</u></p> <ul style="list-style-type: none"> <li>- <u>Chief Operating Officer (COO);</u></li> <li>- <u>Chief Information and Technology Officer (CITO).</u></li> </ul> <p><u>The COO and CITO are equally senior. Both have separate reporting lines to the Board and the CEO.</u></p> <p><u>Overall responsibility for information technology is shared between the COO and CITO.</u></p> <p><u>The COO has overall responsibility for all other internal operations.</u></p>	<p><u>Both individuals perform the chief operations function.</u></p>
<p><u>(3) Firm A has two business lines (broking and advice). It</u></p>	<p><u>B, C and D perform the chief operations function.</u></p>



<p>has the following individuals:</p> <ul style="list-style-type: none"> <li>- a Chief Operating Officer responsible for the internal operations of the broking business (other than technology) (B)</li> <li>- a Chief Information and Technology Officer for the broking business (C)</li> <li>- an individual who combines the roles of Chief Operating Officer and Chief Information and Technology Officer for the advice business (D).</li> </ul> <p><u>B, C and D are equally senior. They all have separate reporting lines to the Board and the CEO.</u></p>	
<p><u>(4) Firm A splits overall responsibility for its internal operations between various individuals. A separate individual is responsible for human resources, business continuity, procurement and outsourcing, buildings and the remaining parts of internal operations. Firm A also has a Chief Information &amp; Technology Officer (CITO) with responsibility for all the firm's technology.</u></p> <p><u>Each individual is equally senior.</u></p>	<p><u>The CITO performs the <i>chief operations function</i>.</u></p> <p><u>None of the others perform the <i>chief operations function</i>. This is because none of them has responsibility for the <i>firm's</i> internal operations as a whole or for all the internal operations of a part of the business. <i>Firm A</i> has divided the responsibility based on function rather than business line.</u></p> <p><u>However those others may be performing the <i>other overall responsibility function</i>.</u></p>
<p><u>(5) Firm A has a Chief Operating Officer (B) responsible for its internal operations. However Firm A separates its internal advisory functions (such as economic and market analysis) and allocates them to C.</u></p>	<p><u>B performs the <i>chief operations function</i>.</u></p> <p><u>C does not.</u></p> <p><u>The same answer would apply if C's functions were split between several others.</u></p>

<p><u>(6) Firm A has a Chief Operating Officer (B). B does not report to the firm's governing body. B reports to several directors about different aspects of B's job, who in turn report to the governing body.</u></p>	<p><u>B does not perform the chief operations function. B does not have overall responsibility for internal operations as B does not have direct responsibility to the governing body. SYSC 26.7 (Meaning of local and overall responsibility: Reporting to the governing body) is relevant to the meaning of overall responsibility in this context.</u></p> <p><u>The directors to whom B reports do not perform the chief operations function either, for the reasons in Example (4).</u></p>
<p><u>(7) Firm A has two business lines (broking and advice). B is chief executive of the broking division and C is chief executive of the advisory division. Each chief executive is responsible for the internal operations and IT of their division. Both B and C report to the Board.</u></p>	<p><u>SUP 10C.6B.2R(5) means that neither B nor C performs the chief operations function.</u></p>

## 10C.7 Other overall responsibility function (SMF18)

### Application

...

- 10C.7.1-1 G The effect of SUP 10C.7.1-2R is that this section only applies to one of the following types of *UK SMCR firm*:
- (1) an *SMCR banking firm*; ~~and~~
  - (2) a *Solvency II firm* (including a *large non-directive insurer*) but excluding an *insurance special purpose vehicle* and certain *firms in run-off*; and
  - (3) an enhanced scope SMCR firm.

### Definition

- 10C.7.1 R A *person* performs the *other overall responsibility function* in relation to a *firm* if that *person*:
- (1) is performing:
    - (a) a function allocated to that *person* under SYSC 26.3.1R (Main rules) in relation to the *firm*; ~~or~~
    - (b) *FCA-prescribed senior management responsibility* (z) in the table in SYSC 24.2.5R (functions in relation to CASS) allocated to that *person* under SYSC 24.2 (Allocation of FCA-prescribed senior management responsibilities: Main allocation rules); ~~and~~ or
    - (c) (if the *firm* has allocated such a function to someone) the function of having overall responsibility for any of the activities, business areas and management functions of the *firm* excluded from SYSC 26.3 (Main rules) by SYSC 26.4.11R (Exclusion for AIFMD); and
  - (2) does not have an approval to perform any other *designated senior management function* in relation to the *firm*.

...

- 10C.7.3 G Table: Examples of how the other overall responsibility function applies

Example	Comments
...	...
<p>(7) ‘A’ is appointed to take on some functions that come within the <i>other overall responsibility function</i>. Later, A is appointed as chief risk officer.</p> <p>The <i>firm</i> is one of those for which being chief risk officer is a <i>PRA-designated senior management function</i> or an <i>FCA-designated senior management function</i>.</p>	<p>On A’s first appointment, A will need to be approved to perform the <i>other overall responsibility function</i>.</p> <p>On being appointed as chief risk officer, A will stop performing the <i>other overall responsibility function</i>.</p>
...	...

...

**10C.8 The other local responsibility function (SMF22) and EEA branch senior manager functions (SMF21)**

...

Other local responsibility function (SMF22)

...

**10C.8.3 G Table: Examples of how the other local responsibility function applies**

Example	Comments
<p>(1) ‘A’ is allocated local responsibility for one of a <i>branch’s</i> main business lines. A is also appointed to perform a <i>PRA-designated senior management function</i> for the same <i>branch</i>. <u>The firm is a PRA-authorised person.</u></p>	<p>A only needs approval to perform the <i>PRA-designated senior management function</i>.</p>
<p>...</p>	
<p>(3) A small branch undertakes two business lines (wholesale lending and corporate investments). ‘A’ is head of wholesale lending and is also an executive director of the branch. ‘B’ is head of corporate investments and does not sit on the branch management committee but reports to it on corporate investments. The branch allocates local responsibility for these functions to A and B. Neither A nor B performs any other <i>FCA-designated senior management function</i> or <u>(if the firm is a PRA-<i>authorised person</i>) PRA-designated senior management function.</u></p>	<p>A only needs approval to perform the <i>executive director function</i>. B needs approval to perform the <i>other local responsibility function</i>.</p>

<p>(4) A <i>branch</i> does not have a Head of Internal Audit. ‘P’ is allocated local responsibility for internal audit in relation to that <i>branch</i>.</p>	<p>P needs approval to perform the <i>other local responsibility function</i>. However, if P has already been approved to perform another <i>FCA-designated senior management function</i> or (if the <i>firm</i> is a <i>PRA-<u>authorised person</u></i>) <i>PRA-designated senior management function</i>, then P will not be performing the <i>other local responsibility function</i>.</p>
<p>...</p>	
<p>(8) ‘A’ is appointed to take on some functions that come within the <i>other local responsibility function</i>. Later, A is appointed as chief risk officer. A is a type of <i>firm</i> for which being chief risk officer is a <i>PRA designated senior management function</i> or an <i>FCA-designated senior management function</i>.</p>	<p>...</p>
<p>...</p>	

...

**10C.9 Minimising overlap with the PRA approved persons regime**

Application

10C.9.1 -1 **G** This section only applies to a *PRA-authorised person*.

...

**10C.10 Application for approval and withdrawing an application for approval**

...

How to apply for approval

...

10C.10.9 **D** ...

(4) A *firm* must not use Form E if:

- (a) a notification has been made or should be made:
  - (i) ...
  - (ii) (if the firm is a PRA-authorised person) to the PRA under any equivalent PRA rule; or
- ...
- (b) a notification has been made or should be made to the FCA or (if the firm is a PRA-authorised person) PRA under any of the following:
  - ...
- (c) (if the firm is a PRA-authorised person) a notification has been made or should be made to the PRA under any provision of the PRA Rulebook corresponding to the requirements in (b); or
- ...

...

#### Criminal records checks and verifying fitness and properness

- 10C.10.16 R (1) This *rule* applies to an application by a *firm* for the FCA's approval under section 59 of the *Act* (Approval for particular arrangements) for the performance of an *FCA-designated senior management function*.
- (2) A *firm* must (as part of its assessment of whether a *candidate* is a fit and proper person to perform an *FCA-designated senior management function* and to verify the information contained in the application to carry out the *FCA-designated senior management function*) obtain the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 (Certificates of Criminal records, etc) and related subordinated legislation of the *UK* or any part of the *UK* before making the application.
- (3) This rule does not apply to a firm that is a sole trader if the candidate is the sole trader themselves.

...

#### 10C.11 Statements of responsibilities

...

What this section covers

- 10C.11.2 G (1) ...
- (2) However, in the case of a PRA-*authorised person*, where applications and notifications relate both to *FCA-designated senior management functions* and to *PRA* ones, the regulators' requirements are consistent with each other.
- ...

...

Revised statements of responsibilities: Meaning of significant change

- 10C.11.6 G (1) ...
- (2) A variation of the *FCA-approved SMF manager's* approval, either at the *firm's* request or at the *FCA's* or (in the case of a PRA-*authorised person*), *PRA's* initiative, resulting in the imposition, variation or removal of a condition or time limit, may involve a significant change.
- (3) ...
- (4) The addition, re-allocation or removal of any of the following (or part of one):
- (a) an *FCA-prescribed senior management responsibility*;
- (b) (in the case of a PRA-*authorised person*), a *PRA-prescribed senior management responsibility*; or
- ...
- (5) The sharing or dividing of an *FCA-prescribed senior management responsibility* or, in the case of a PRA-*authorised person*, a *PRA-prescribed senior management responsibility*, that was originally performed by one *person* between two or more *persons* may involve a significant change.
- (6) Ceasing to share an *FCA-prescribed senior management responsibility* or, in the case of a PRA-*authorised person*, a *PRA-prescribed senior management responsibility*, that was originally shared with another, or others, may involve a significant change.
- ...

Revised statements of responsibilities: Procedure

- 10C.11.7 D (1)

...

- (3) ~~Where~~ In the case of a PRA-authorized person, where the change to be notified to the FCA under section 62A of the Act is part of an arrangement under which:

...

...

One document for each SMF manager for each firm

...

10C.11.14 G ...

- (2) ~~The~~ (In the case of a PRA-authorized person), the document in (1) should cover PRA-designated senior management functions as well as FCA-designated senior management functions.

...

- (4) The FCA and the PRA have coordinated their arrangements so that a ~~firm~~ PRA-authorized person can prepare a single document that will meet the requirements of both regulators about *statements of responsibilities*.

...

...

Submitting statements of responsibilities: examples of how the requirements work

10C.11.18 G The table in SUP 10C.11.19G gives examples of how the requirements in this section for submitting *statements of responsibilities* (combined, in the case of a PRA-authorized person, with the corresponding PRA requirements) work in different cases.

10C.11.19 G Table: Examples of how the requirements for submitting statements of responsibilities work

Example	Comments
...	
(3) A firm applies for approval for A to perform an FCA-designated senior management function and a PRA-designated senior management function.	...



Example	Comments
<p>The arrangements in SUP 10C.9 for <i>FCA</i> functions to be absorbed into <i>PRA</i> ones do not apply and so there are separate applications to the <i>FCA</i> and <i>PRA</i>.</p> <p><u>The firm is a <i>PRA-authorised person</i>.</u></p>	
...	
<p>(5) A has approval to perform the <i>executive director function</i>. Later, A is to be appointed to perform the <i>PRA</i>'s chief risk officer <i>designated senior management function</i> for the same <i>firm</i>. This will also result in substantial changes to A's duties as an executive director.</p> <p><u>The firm is a <i>PRA-authorised person</i>.</u></p>	...
...	
<p>(8) A has approval to perform the <i>executive director function</i> and the <i>PRA</i>'s chief risk officer <i>designated senior management function</i> for the same <i>firm</i>. The arrangements in SUP 10C.9 for <i>FCA</i> functions to be absorbed into <i>PRA</i> ones do not apply and so there are separate <i>FCA</i> and <i>PRA</i> approvals.</p> <p>The approval to perform the <i>PRA</i>'s chief risk officer <i>designated senior management function</i> is subject to a condition. The <i>firm</i> is applying to vary that condition. As part of the same arrangements, there are to be substantial changes to A's job as an executive director.</p> <p><u>The firm is a <i>PRA-authorised person</i>.</u></p>	...
<p>(9) A has approval to perform the <i>executive director function</i> and the <i>money laundering function</i> for the same <i>firm</i>.</p> <p>Sometime later, A is to give up the <i>money laundering function</i> and take up the <i>PRA</i>'s chief risk officer <i>designated senior management function</i>. This will involve major changes to A's role as executive director.</p> <p><u>The firm is a <i>PRA-authorised person</i>.</u></p>	...

Example	Comments
...	
<p>(11) A has approval to perform the <i>executive director function</i> and the <i>PRA's chief risk officer designated senior management function</i> for the same <i>firm</i>. Later, A gives up his role as chief risk officer.</p> <p><u>The firm is a PRA-authorised person.</u></p>	...
...	
<p>(14) A has approval to perform the <i>executive director function</i>. Later, A's business unit grows in size and so the <i>firm</i> needs to apply for A to be approved to perform the <i>PRA's Head of Key Business Area designated senior management function</i>. However, A's responsibilities do not change.</p> <p><u>The firm is a PRA-authorised person.</u></p>	...
...	

Need for a complete set of current statements of responsibilities

...

10C.11.21 G (1) A complete set of current *statement of responsibilities* means all *statements of responsibilities* that the *firm* has provided to the *FCA* or (in the case of a *PRA-authorised person*), *PRA* as revised under section 62A of the *Act* and this chapter.

...

...

What statements of responsibilities should contain: General

...

10C.11.24 G (1) A *statement of responsibilities* (including its attachment sheet for additional information) should:

...

- (c) only contain material about the matters that this chapter, the corresponding *PRA* requirements (in the case of a *PRA-authorised person*), and the *Act* say should be included in it.

...

...

10C.11.26 G ...

- (2) For instance, these include:

- (a) the responsibilities that go with the *FCA required functions*; and
- (b) the *FCA-prescribed senior management responsibilities* and (in the case of a *PRA-authorised person*) the *PRA-prescribed senior management responsibilities*.

...

...

10C.11.28 G (1) ...

*A statement of responsibilities* of an *SMF manager* should include details about any:

- (a) *FCA-prescribed senior management responsibilities* and (in the case of a *PRA-authorised person*) *PRA-prescribed senior management responsibilities* allocated to the *SMF manager*;
- (b) (in the case of a *PRA-authorised person*) functions that are included in a *PRA controlled function* under the arrangements described in *SUP 10C.9* (Minimising overlap with the *PRA approved persons regime*);

...

...

...

## 10C.12 Conditional and time-limited approvals

Purpose

10C.12.1 G ...

- (3) ~~The~~ (In the case of a PRA-*authorised person*) the policies described in SUP 10C.12 also apply when the FCA is considering whether to give its consent to an application made to the PRA for approval.
- ...
- 10C.12.2 G ...
- (3) The FCA has (in SUP 10A (FCA Approved Persons in Appointed Representatives)) specified *controlled functions* for *SMCR firms* that are not *designated senior management functions*. ~~See SUP 10C.1.7R to SUP 10C.1.8G (Appointed representatives) for more about this.~~
- ...

...

**10C.13 Variation of conditional and time-limited approvals**

...

Variation of a conditional approval at the request of the firm: general description

...

- 10C.13.4 G (1) ~~There are requirements about whether~~ If the firm applying for a change described in SUP 10C.13.3G is a PRA-*authorised person*, there are requirements about whether it should apply to the FCA or the PRA. Paragraphs (2) to (3) summarise these requirements.

...

...

**10C.14 Changes to an FCA-approved person’s details**

Moving within a firm

- 10C.14.1 G ...
- (4) Similarly (in the case of a PRA-*authorised person*), a firm must get the FCA’s approval if an individual is to start performing an *FCA-designated senior management function* in relation to that firm when they already have the PRA’s approval to perform a *PRA-designated senior management function* in relation to that firm.

...

Notifications about fitness, disciplinary action and breaches of COCON

...

10C.14.22 R ...

(5A) (in the case of a PRA-*authorised person*) under the PRA's requirements corresponding to (4) or (5), if those requirements apply; or

...

...

## 10C.15 Forms and other documents and how to submit them to the FCA

...

How to make applications and give notifications

10C.15.7 D (1) A *firm* other than a ~~*credit union firm*~~ in (2) must submit a document in column 1 of the table in SUP 10C.15.10R, in accordance with the corresponding requirement in column two of that table.

(2) A:

(a) *credit union; or*

(b) *a firm whose Part 4A permission covers only credit-related regulated activities;*

must submit a document in column 1 of the table in SUP 10C.15.10R, in accordance with the corresponding requirement in column three of that table.

(3) ...

10C.15.8 R ...

10C.15.9 G It is up to the ~~*credit union firm*~~ referred to in SUP 10C.15.7D(2) concerned to decide which of the methods of submission available to it under SUP 10C.15.10R it is going to use.

10C.15.10 R Table: Method of submission

Form or other document	Firms that are not credit unions or consumer credit firms (SUP 10C.15.7D(1))	Credit unions and consumer credit firms (SUP 10C.15.7D(2))
...		

...

## 10C.16 References and accurate information

### References

- 10C.16.1 R (4) SYSC 22 (Regulatory references) says that if a *firm* (A):
- (a) is considering appointing a *person* (P) to perform any *controlled function* or certain other functions;
  - (b) requests a reference from a *firm* (B) that is P's current or former *employer*; and
  - (c) indicates to B the purpose of the request;
- B should, as soon as reasonably practicable, give a reference to A.
- (2) ~~This applies even if A is a *firm* to which SUP 10A (FCA Approved Persons) applies rather than this chapter.~~

...

## 10C Annex 1 What functions apply to what type of firm

### Part One: Introduction

...

- 1.3 G ...
- (3) Another reason would be if the *rules* defining the *FCA controlled function* refer to a *rule* elsewhere in the *Handbook* and the latter only applies to certain types of *firm*. For example, SYSC 1 Annex 1 (Detailed application of SYSC) and SYSC 4.4 (Apportionment of responsibilities) cut back the application of the *limited scope function*.

- (4) The exclusions in Part Two of this Annex and in SUP 10C.1 are also relevant.

...

1.4 R In the tables in this annex:

- (1) ✓ means that the *FCA controlled function* applies;
- (2) × means that the *FCA controlled function* does not apply;

Part Two: General exclusions

- 2.1 R (1) ~~{This part has been left blank deliberately}~~ This chapter, except in respect of the *FCA required functions*, does not apply to an *authorised professional firm* that is an *FCA-authorised person* in respect of its *non-mainstream regulated activities*, subject to (2).
- (2) Where the *authorised professional firm* has appointed *FCA-approved persons* to perform the *FCA governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*, for the *firm's non-mainstream regulated activities* this chapter applies with respect to the *FCA governing functions* and the *FCA required functions* only.

...

Insert the following new Parts in SUP 10C Annex 1 where indicated. The text is not underlined.

4.4 R ...

Part Five: Functions applying to core firms

- 5.1 R (1) The table in SUP 10C Annex 1 5.2R sets out which *FCA controlled function* applies to which type of *core SMCR firm*.
- (2) *Firms* in (1) are divided into the following categories for the purposes of this *rule*:
- (a) a *UK SMCR firm* not falling into (d);
- (b) an *EEA SMCR firm*;
- (c) an *overseas SMCR firm* not falling into (b); and
- (d) a *UK SMCR firm* falling into SYSC 23 Annex 1 6.4R (a *firm* exempt under *MiFID* whose only *permission* is *bidding in emissions auctions*).

5.2 R Table: Controlled functions applying to core SMCR firms

(1) Brief description of function	(2) Function number	(3) UK firm	(4) EEA firm	(5) Other overseas firm	(6) Emission auction bidder
Governing functions					
<i>Chief executive function</i>	SMF 1	✓	×	×	✓
<i>Executive director function</i>	SMF 3	✓	×	✓	✓
<i>Chair of the governing body function</i>	SMF 9	✓	×	×	✓
<i>Head of third country branch function</i>	SMF 19	×	×	✓	×
<i>Partner function</i>	SMF 27	✓	×	×	✓
Required functions					
<i>Compliance oversight function</i>	SMF 16	✓	×	✓	×
<i>Money laundering reporting function</i>	SMF 17	✓	✓	✓	✓
Other high-level management functions					
<i>EEA branch senior manager function</i>	SMF 21	×	✓	×	×
<p>Note: The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> at SUP 10C Annex 1 5.1R. Therefore:</p> <p>(a) column three (UK firm) refers to SUP 10C Annex 1 5.1R(2)(a);</p> <p>(b) column four (EEA firm) refers to SUP 10C Annex 1 5.1R(2)(b);</p> <p>(c) column five (Other overseas firm) refers to SUP 10C Annex 1 5.1R(2)(c); and</p> <p>(d) column six (Emission auction bidders) refers to SUP 10C Annex 1 5.1R(2)(d).</p>					

#### Part Six: Functions applying to enhanced scope firms

- 6.1 R The table in SUP 10C Annex 1 6.2R sets out which *FCA controlled functions* apply to an *enhanced scope SMCR firm*.



## 6.2 R Table: Controlled functions applying to enhanced scope SMCR firms

<b>Brief description of function</b>	<b>Function number</b>	<b>Enhanced scope firms</b>
Governing functions		
<i>Chief executive function</i>	SMF 1	✓
<i>Executive director function</i>	SMF 3	✓
<i>Group entity senior manager function</i>	SMF 7	✓
<i>Chair of the governing body function</i>	SMF 9	✓
<i>Chair of the risk committee function</i>	SMF 10	✓
<i>Chair of the audit committee function</i>	SMF 11	✓
<i>Chair of the remuneration committee function</i>	SMF 12	✓
<i>Chair of the nomination committee function</i>	SMF 13	✓
<i>Senior independent director function</i>	SMF 14	✓
<i>Partner function</i>	SMF 27	✓
Required functions		
<i>Compliance oversight function</i>	SMF 16	✓
<i>Money laundering reporting function</i>	SMF 17	✓
<i>Other overall responsibility function</i>	SMF 18	✓
Systems and controls functions		
<i>Chief finance officer function</i>	SMF 2	✓
<i>Chief risk officer function</i>	SMF 4	✓

<i>Head of internal audit function</i>	SMF 5	✓
<i>Chief operations function</i>	SMF 24	✓

Part Seven: Functions applying to limited scope firms

- 7.1 R *Limited scope SMCR firms* are divided into the following categories for the purposes of SUP 10C Annex 1:
- (1) a *firm* falling within the table in SYSC 23 Annex 1 5.4R that does not come within (2) to (4);
  - (2) a *firm* falling within row (5) of the table in SYSC 23 Annex 1 5.4R (distribution of *non-investment insurance contracts*);
  - (3) a *firm* falling within SYSC 23 Annex 1 5.7R (credit firms with limited permission) except for one falling within (4);
  - (4) a *firm* falling within SYSC 23 Annex 1 5.7R that is an *appointed representative*;
  - (5) a *sole trader* who does not come within (1) to (4);
  - (6) an *authorised professional firm* that does not come within (1) to (4);
  - (7) a *firm* in the table in SUP 10C Annex 1 7.10R.
- 7.2 R A *firm* in SUP 10C Annex 1 7.1R(7) does not fall into any other paragraph of SUP 10C Annex 1 7.1R.
- 7.3 R (1) The table in SUP 10C Annex 1 7.4R sets out which *FCA controlled functions* apply to a *limited scope SMCR firm* covered by SUP 10C Annex 1 7.1R(1), (2), (3) or (4).
- (2) Part Two of that table applies to *EEA SMCR firms*.
  - (3) Part One of that table applies to other *limited scope SMCR firms* in (1).
- 7.4 R Table: Controlled functions applying to limited scope SMCR firms except sole traders and authorised professional firms

<b>Part One (UK and non-EEA)</b>				
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
<b>Brief description of function</b>		<b>General</b>		

	Function number		Insurance distribution and credit firms	Consumer credit appointed representatives
Governing functions				
The <i>governing functions</i> that apply to <i>core SMCR firms</i>	Various	×	×	✓
Required functions				
<i>Compliance oversight function</i>	SMF 16	✓	×	×
<i>Money laundering reporting function</i>	SMF 17	✓	×	×
<i>Limited scope function</i>	SMF 29	✓	✓	✓

Part Two (EEA firms)				
(1) Brief description of function	(2) Function number	(3) General	(4) Insurance distribution and credit firms	(5) Consumer credit appointed representatives
Required functions				
<i>Money laundering reporting function</i>	SMF 17	✓	Note (3)	Note (3)

Notes to the table
<p>Note (1): The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> at SUP 10C Annex 1 7.1R. Therefore:</p> <p>(1) column three (General) refers to SUP 10C Annex 1 7.1R(1);</p> <p>(2) column four (Insurance distribution and credit firms) refers to SUP 10C Annex 1 7.1R(2) and SUP 10C Annex 1 7.1R(3); and</p> <p>(3) column five (Consumer credit appointed representatives) refers to SUP 10C Annex 1 7.1R(4).</p>
<p>Note (2): SUP 10C Annex 1 7.3R sets out which part of the table applies to which <i>firm</i>.</p>
<p>Note (3): Not applicable to these <i>firms</i> because SUP 10C Annex 1 7.2R means that the table does not apply to <i>firms</i> in this category.</p>

- 7.5 R (1) This *rule* applies to a *firm* in SUP 10C Annex 1 7.1R(4) (an *appointed representative* that has a *limited permission*).
- (2) The *required functions* apply in relation to the carrying on of the *regulated activity* for which it has *limited permission*.
- (3) The *governing functions* apply in relation to the carrying on of the *regulated activity*, for which it does not have *permission*, comprised in the business for which its *principal* has accepted responsibility.
- (4) If the *appointed representative* meets the conditions in SUP 10A.1.16R(2), only one of the *governing functions* applies under (3), as appropriate, to an individual within that *appointed representative* who will be required to be an *FCA-approved person*.
- 7.6 G The *customer function* also applies to a *firm* in SUP 10C Annex 1 7.1R(4) under SUP 10A (FCA Approved Persons in Appointed Representatives). Such a *firm* will need to read SUP 10A as well as this annex to find the complete list of *controlled functions* that apply to them.
- 7.7 R (1) The table in SUP 10C Annex 1 7.8R sets out which *FCA controlled functions* apply to a *limited scope SMCR firm* that is covered by SUP 10C Annex 1 7.1R(5) or (6) (a *sole trader* or an *authorised professional firm*).
- (2) *Firms* in (1) are divided into the following categories for the purposes of this *rule*:
- (a) a *UK SMCR firm*;
- (b) an *EEA SMCR firm*; and
- (c) an *overseas SMCR firm* not falling into (b).
- 7.8 R Table: Controlled functions applying to limited scope SMCR firms that are sole traders or authorised professional firms

(1) Brief description of function	(2) Function number	(3) UK firm	(4) EEA firm	(5) Other overseas firm
Governing functions				
<i>Chief executive function</i>	SMF 1	✓	×	×
<i>Executive director function</i>	SMF 3	✓	×	✓

<i>Chair of the governing body function</i>	SMF 9	✓	×	×
<i>Head of third country branch function</i>	SMF 19	×	×	✓
<i>Partner function</i>	SMF 27	✓	×	×
Required functions				
<i>Compliance oversight function</i>	SMF 16	✓	×	✓
<i>Money laundering reporting function</i>	SMF 17	✓	✓	✓
<i>Limited scope function</i>	SMF 29	✓	×	✓
Other high-level management functions				
<i>EEA branch senior manager function</i>	SMF 21	×	✓	×
<p>Note: The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> at SUP 10C Annex 1 7.2R. Therefore:</p> <p>(a) column three (UK firm) refers to SUP 10C Annex 1 7.7R(2)(a);</p> <p>(b) column four (EEA firm) refers to SUP 10C Annex 1 7.7R(2)(b); and</p> <p>(c) column five (Other overseas firm) refers to SUP 10C Annex 1 7.7R(2)(c).</p>				

7.9 R None of the *FCA controlled functions* apply to a *limited scope SMCR firm* in the table in SYSC 23 Annex 1 7.10R.

7.10 R Table: Limited scope SMCR firms to which no controlled functions apply

Function	Comments
<i>A firm in SYSC 23 Annex 1 5.8R (not-for-profit debt advice body)</i>	
<i>A firm in SYSC 23 Annex 1 5.10R (internally managed AIF)</i>	
<i>An EEA SMCR firm falling within row (5) of the table in SYSC 23 Annex 1 5.4R (distribution of non-investment insurance contracts)</i>	
<i>An EEA SMCR firm falling within SYSC 23 Annex 1 5.7R (credit firm with limited permission)</i>	<i>This applies whether or not it is an appointed representative</i>

- 7.11 G As explained in SUP 10C Annex 1 1.3G, the full range of *FCA controlled functions* that are applied to a class of *firm* by this Annex may not apply to every *firm* in that class. For example, in the case of a *limited scope SMCR firm* that is a *sole trader*:
- (1) In practice it is unlikely that the *governing functions* will apply to a *sole trader* (see SUP 10C.4A.2G).
  - (2) The *money laundering reporting function* does not apply to a *sole trader* with no employees (see SYSC 6.3.9R).

Amend the following as shown.

**10C**            **Summary of forms and their use in the senior managers regime**  
**Annex**  
**2G**

Function	Form	Submission
...		
(10) <i>Person</i> remaining with the same <del><i>firm</i></del> <u><i>PRA-authorised person</i></u> but giving up a <i>PRA controlled function</i> and taking up an <i>FCA-designated senior management function</i> .	E	Submitted by <i>firm</i> to the <i>FCA</i> before changes take place.
(11) <i>Person</i> remaining with the same <del><i>firm</i></del> <u><i>PRA-authorised person</i></u> but giving up an <i>FCA-designated senior management function</i> and taking up a <i>PRA-designated senior management function</i> .	E	Submitted by <i>firm</i> to the <i>PRA</i> before changes take place (see the <i>PRA</i> 's requirements).
(12) <i>Person</i> remaining with the same <del><i>firm</i></del> <u><i>PRA-authorised person</i></u> in the circumstances described in example 9 in the table in SUP 10C.7.3G (ceasing to perform a <i>PRA controlled function</i> triggering need for <i>FCA</i> approval to perform the <i>other overall responsibility function</i> ).	E	Submitted by <i>firm</i> to the <i>FCA</i> in advance of giving up the <i>PRA controlled function</i> .
(13) <i>Person</i> with approval to perform the <i>other overall responsibility function</i> remaining with the same <i>firm</i> but ceasing to require approval to perform that function because of being approved to perform	E	Submitted by <i>firm</i> to:  (a) the <i>PRA</i> (if the new function is a <i>PRA controlled function</i> <u>and</u>

another <i>controlled function</i> (see the table in SUP 10C.7.3G for examples).		<u>the firm is a PRA-authorised person</u> ); or (b) the FCA (if the new function is an FCA controlled function).
(14) <i>Person</i> remaining with the same <del>firm</del> <u>PRA-authorised person</u> in the circumstances described in example 8 in the table in SUP 10C.9.9G (giving up a PRA controlled function triggering need for FCA approval).	E	Submitted by firm to the FCA in advance of giving up the PRA controlled function.
...		

Insert the following annexes in the appropriate position. The text (which consists of forms) is included in Part Two of Annex Q of this instrument.

**10C Annex Form A: Application to perform senior management functions  
3D**

Long Form A – Solo regulated firms (including EEA and third country)

Short Form A – Solo regulated firms (including EEA and third country)

(The first form is to be inserted under the heading “Long Form A” and the second form is to be inserted under the heading “Short Form A”)

**10C Annex Form E: Internal transfer of a person performing a controlled function  
7D**

Form E – Internal transfer of a person performing a controlled function for solo-regulated firms (including EEA and third country)

**10C Annex Statement of responsibilities  
10D**

Statement of responsibilities for solo-regulated SMCR firms

Amend the following as shown.

...

**12 Appointed representatives**

...

## 12.6 Continuing obligations of firms with appointed representatives or EEA tied agents

...

Obligations of firms under the approved persons and senior managers regime

- 12.6.8 G (1) Some of the *controlled functions*, as set out in ~~SUP 10A.4.1R~~ SUP 10A, apply to an *appointed representative* of a firm, other than an *introducer appointed representative*, just as they apply to a firm (see ~~SUP 10A.1.15R~~). These are the *governing functions* and the *customer function*. In the case of an *appointed representative* that also has a *limited permission*, an ~~FCA required designated senior management function~~ may apply to it and SUP 10C may apply in addition to SUP 10A. As explained in ~~SUP 10A.1.16R~~ and ~~SUP 10A.3.2G~~ respectively:
- (a) ~~the effect of SUP 10A.1.15R is that the directors (or their equivalent) and senior managers (or their equivalent) of an appointed representative, other than an introducer appointed representative, must also be approved under section 59 of the Act for the performance of certain controlled functions;~~
  - (b) ~~although the customer function applies to an appointed representative, the descriptions of the functions themselves do not extend to home finance mediation activity, insurance distribution activity or credit related regulated activity;~~
  - (ba) ~~if an appointed representative also has a limited permission:~~
    - (i) ~~the apportionment and oversight function applies to it in relation to the carrying on of the regulated activity for which it has limited permission, unless it is a not-for-profit debt advice body;~~
    - (ii) ~~if it is a not-for-profit debt advice body and a CASS large debt management firm, the CASS operational oversight function applies in relation to the carrying on of debt management activity; and~~
  - (c) ~~sections 59(1) and 59(2) of the Act (Approval for particular arrangements) provide that approval is necessary in respect of a controlled function which is performed under an arrangement entered into by a firm, or its contractors (typically an appointed representative), in relation to a regulated activity.~~
- (2) ~~The approved persons regime applies differently to an appointed representative whose scope of appointment includes insurance distribution activity in relation to non-investment insurance contracts or credit related regulated activity but no other regulated activity~~



~~and whose principal purpose is to carry on activities other than regulated activities. These appointed representatives need only one person performing one of the governing functions. This means that only one director (or equivalent) of these appointed representatives must be approved under section 59 of the Act for the performance of the director function, the chief executive function, the partner function or the director of unincorporated association function, whichever is the most appropriate (see SUP 10A.1.16R). [deleted]~~

- (3) ~~The approved persons regime does not apply in relation to CBTL business carried on by CBTL firms. [deleted]~~
- (4) ~~The approved persons regime for SMCR firms is in SUP 10C (FCA senior managers regime for approved persons in SMCR firms); rather than SUP 10A. However, SUP 10A still applies to approved persons of appointed representatives of SMCR firms (see SUP 10A.1.16BR to SUP 10A.1.16DG and SUP 10C.1.8G for more about this). [deleted]~~

...

**13A Qualifying for authorisation under the Act**

...

**13A Application of the Handbook to Incoming EEA Firms**  
**Annex 1G**

...

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of a firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...	...	...
APER	APER applies to approved persons of <u>appointed representatives of firms</u> <del>other than SMCR firms</del> . See below under SUP 10A as to whether <del>controlled functions</del> are	Not relevant because SUP 10A does not apply

	performed, and approval therefore required.	
...	...	...
<i>SUP</i>	...	...
	<p><b>SUP 10A (Approved persons)</b>  Applies to an <i>EEA firm</i> that <u>has appointed representatives</u> and is <del>not an <i>SMCR firm</i>, but the applicable <i>controlled functions</i> are limited.</del> See <i>SUP 10A.1 (Application)</i> for more detailed <i>guidance</i>.</p>	<p><b>SUP 10A (Approved persons)</b>  Does not apply (<del><i>SUP 10A.1.6R</i></del>).</p>
	...	...
...	...	...

...

**15 Notifications to the FCA**

...

**15.11 Notification of COCON breaches and disciplinary action**

...

Timing and form of notifications: conduct rules staff other than SMF managers

15.11.13 R ...

(3) Each notification must:

(a) cover:

(i) (in the case of a *firm* falling within SYSC 23 Annex 1 5.7R (credit firms with limited permission)) its annual financial reporting period ending on its *accounting reference date*; or

(ii) (for any other *firm*) the 12 month period ending on the last day of August; and

(b) be submitted to the *FCA*:

- (i) within two months of the end of the reporting period in (a)(i) or (a)(ii); or
- (ii) (if the end of the submission period in (b)(i) falls on a *day* which is not a *business day*) so as to be received no later than the first *business day* after the end of that submission period.

...

...

## TP 10 Benchmarks Regulation Transitional Provisions

...

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision : dates in force	(6) Handbook provision : coming into force
..					
2	<i>SUP</i> 10A.4.4R and <i>SUP</i> 10A.7.1.13R <u>[deleted]</u>	R	The <i>rules</i> in column 2, as they were on 28 June 2018, continue to apply to a <i>benchmark administrator in relation to a specified benchmark</i> until that administrator becomes authorised or registered under the <i>benchmark regulation</i> , or ceases to be authorised for <i>administering a specified benchmark</i> .	From 29 June 2018	Already in force
3	<i>SUP</i> 10A.8.2R	R	The <i>rule</i> in column 2, as it was on 28 June 2018 continues to apply to a <i>benchmark administrator in relation to a specified benchmark</i> until that administrator becomes	From 29 June 2018	Already in force

			<p>authorised or registered under the <i>benchmark regulation</i>, or ceases to be authorised for <i>administering a specified benchmark</i>.</p>		
--	--	--	---	--	--

...

## Annex K

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 1            **Treating complainants fairly**

...

#### 1.3          **Complaints handling rules**

...

##### 1.3.7        R    ...

- (4)    A *person* approved to perform the ~~*apportionment and oversight function*~~ *limited scope function* for the *firm* or for a *firm* in the same *group* as the *firm* satisfies the condition in (3).

...

## Annex L

### Amendments to the Credit Unions sourcebook (CREDS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

## 2 Senior management arrangements, systems and controls

...

### 2.2 General provisions

...

Governance and senior management arrangements: allocation of senior management responsibilities

...

2.2.69 G (1) The list of *FCA-prescribed senior management responsibilities* that a credit union should allocate is simpler than for most other SMCR firms who are PRA-*authorised persons*.

...

...

## 8 Supervision

...

### 8.3 Approved persons

...

8.3.4 G (1) The regime for *approved persons* ~~differs between~~ applies to SMCR firms and other types of firm.

(2) *A credit union* is a type of *SMCR firm*.

(3) *SUP 10C* deals with the *approved persons* requirements for *credit unions* and other *SMCR firms*.

...

8.3.8 G ...

(3) ~~*Designated senior management functions* only apply to *SMCR firms*, including *credit unions*.~~ [deleted]

...

## Annex M

## Amendments to the Energy Market Participants guide (EMPS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1 Special guide for energy market participants**

...

**1.2 Parts of the Handbook applicable to energy market participants**

...

**1.2.3 G Applicability of parts of Handbook to energy market participants**

This table belongs to *EMPS* 1.2.1G

	<b>Part of Handbook</b>	<b>Applicability to energy market participants</b>
<b>High Level Standards</b>	...	...
	Code of Conduct ( <i>COCON</i> )	This <del>does not apply</del> <u>applies</u> .
	...	...
	Statements of Principle and Code of Practice for Approved Persons ( <i>APER</i> )	<del>This applies to an approved person who performs a controlled function for</del> <u>If an energy market participant has an appointed representative, <i>APER</i> applies to approved persons in relation to that appointed representative.</u>
...	...	...
...	...	...
<b>Regulatory processes</b>	...	...
	Supervision manual ( <i>SUP</i> )	This applies, with the following qualifications:



		<p>...</p> <p>(b) in SUP 10 (Approved persons), if an <i>oil market participant's</i> principal purpose is to carry on activities other than <i>regulated activities</i>, then the scope of the <i>significant influence functions</i> is restricted to the <i>required functions</i>: see <del>SUP 10A.1.18R – SUP 10A.1.19G</del></p> <p>...</p>
	...	...
...	...	...

...

## Annex N

## Amendments to the Oil Market Participants guide (OMPS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1 Special guide for oil market participants**

...

**1.2 Parts of the Handbook applicable to oil market participants**

...

**1.2.2 G Parts of the Handbook applicable to oil market participants**

This table belongs to *OMPS 1.2.1G*

	<b>Part of Handbook</b>	<b>Applicability to energy market participants</b>
<b>High Level Standards</b>	...	...
	<u>Code of Conduct (COCON)</u>	This <del>does not apply</del> <u>applies</u> .
	...	...
	Statements of Principle and Code of Practice for Approved Persons (APER)	<del>This applies to an approved person who performs a controlled function for</del> <u>If an oil market participant has an appointed representative, APER applies to approved persons in relation to that appointed representative.</u>
...	...	...
<b>Regulatory processes</b>	...	...
	Supervision manual (SUP)	This applies, with the following qualifications: ...

		<p><del>(b) in SUP 10 (Approved persons), if an oil market participant's principal purpose is to carry on activities other than regulated activities, then the scope of the significant influence functions is restricted to the required functions: see SUP 10A.1.18R – SUP 10A.1.19G</del></p> <p>...</p>
	...	...
...	...	...

...

**Annex O**

**Amendments to the Service companies guide (SERV)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1 Handbook requirements for service companies**

...

**1.2 Parts of the Handbook applicable to service companies**

...

**1.2.2 G Parts of the Handbook applicable to service companies**

This table belongs to *SERV* 1.2.1G

	<b>Part of Handbook</b>	<b>Applicability to energy market participants</b>
<b>High Level Standards</b>	...	...
	Code of Conduct ( <i>COCON</i> )	This does not apply <u>applies</u> .
	...	...
	Statements of Principle and Code of Practice for Approved Persons ( <i>APER</i> )	<del>This applies to an approved person who performs a controlled function for</del> <u>If an service company has an appointed representative, <i>APER</i> applies to approved persons in relation to that appointed representative.</u>
...	...	...
...	...	...
<b>Regulatory processes</b>	...	...
	Supervision manual ( <i>SUP</i> )	This applies, with the following qualifications: ... <del>(e) in <i>SUP</i> 10 (Approved persons), if a service company's principal purpose is to</del>

		<p><del>carry on activities other than <i>regulated activities</i>, then the scope of the <i>significant influence functions</i> is restricted to the <i>required functions</i>: see <i>SUP 10A.1.18R</i> – <i>SUP 10A.1.19G</i>;</del></p> <p>...</p>
	...	...
...	...	...

...

**Annex P**

**Amendments to General guidance on Benchmark Administration, Contribution and Use (BENCH)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

**1 Handbook requirements in relation to benchmark contribution activity and benchmark administration activity**

**1.1 Application and purpose**

...

Benchmarks Regulation and transitional arrangements

...

1.1.3 G ...

(4)

(a) *SYSC TP 6 and SYSC TP 7*;

...

...

**2 Parts of the Handbook applicable to regulated benchmark administrators and benchmark contributors**

**2.1 Parts of the Handbook applicable to regulated benchmark administrators**

...

2.1.2 G Parts of the *Handbook* applicable to the *regulated activity of administering a benchmark*.

	Part of the Handbook	Applicability to the <i>regulated activity of administering a benchmark</i>
High Level Standards	...	
	Senior Management Arrangements, Systems and	The detailed application of this is set out in <i>SYSC 1 Annex 1</i> . However, in general, only the following parts of <i>SYSC</i> will be relevant to a <i>firm</i> which only has <i>permission</i> to carry

	Controls (SYSC)	on the <i>regulated activity of administering a benchmark</i> : a) SYSC 1; b) SYSC 18.3.9G; c) SYSC 22 <u>to SYSC 27</u> .
	...	
	Statements of Principle and Code of Practice for Approved Persons (APER)	This applies to an <i>approved person of an appointed representative of a firm that is not an SMCR firm</i>
	...	
...		
Regulatory Processes	Supervision Manual (SUP)	This applies subject to the following qualifications: (a) In general only the following parts of SUP will be relevant to a <i>firm</i> which only has <i>permission</i> to carry on the <i>regulated activity of administering a benchmark</i> : SUP 1-2, SUP 5-8, SUP 9-10A, <u>SUP 10C</u> , SUP 15-15B, SUP 16.1-16.3 and SUP 16.10. (b) <del>SUP 10A only applies to a regulated benchmark administrator which is not an SMCR firm (but not all controlled functions apply to a firm which only has permission to carry on the regulated activity of administering a benchmark).</del> <u>[deleted]</u> (c) ...
	...	
...		

## Annex Q

### Handbook forms

All the text in this Annex is new and so it is not underlined. The forms are to be inserted in the place specified in paragraph F of the cover sheet of this instrument.

**Part 1: Comes into force [ ] 20[ ]** [about six months before main commencement date for solo-regulated firms]



Application number  
(for FCA use only)

## Form K - Conversion Notification Form for FCA Solo Regulated Firms

FCA Handbook Reference: SUP TP 10.23.1R

[Commencement Date]

Name of *firm*

Firm Reference Number (FRN)

Financial Conduct Authority  
12 Endeavour Square  
Stratford  
London E20 1JN  
United Kingdom

Telephone +44 (0) 300 500 0597

E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

Website <http://www.fca.org.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

## Contact Details

## Section 1

Contact for this notification

Title	
First name	
Surname	
Job title	
Business address	
Postcode	
Phone number	
Email address	

**Conversion Notification** **Section 2**

This section should only be completed by *enhanced scope SMCR firms* (for CF2 to SMF9 conversion for *core SMCR firms*, see 2.02).

**2.01** The table below provides a breakdown of possible applicable *senior management functions* for **enhanced SMCR firms** only. Please tick all of the *senior management functions* which have been allocated in this conversion notification. Only those *senior management functions* potentially applicable to *enhanced SMCR firms* are listed.

**Core SMCR firms** should use the table in 2.02 if applying for conversion where auto-conversion has not occurred.

Function	Description of <i>senior management function</i>	Allocated?
SMF 1	Chief Executive	<input type="checkbox"/>
SMF 2	Chief Finance	<input type="checkbox"/>
SMF 3	Executive Director	<input type="checkbox"/>
SMF 4	Chief Risk Officer	<input type="checkbox"/>
SMF 5	Head of Internal Audit	<input type="checkbox"/>
SMF 7	Group Entity Senior Manager	<input type="checkbox"/>
SMF 9	Chair of the Governing Body	<input type="checkbox"/>
SMF10	Chair of the Risk Committee	<input type="checkbox"/>
SMF11	Chair of the Audit Committee	<input type="checkbox"/>
SMF12	Chair of the Remuneration Committee	<input type="checkbox"/>
SMF13	Chair of the Nominations Committee	<input type="checkbox"/>
SMF14	Senior Independent Director	<input type="checkbox"/>
SMF16	Compliance Oversight	<input type="checkbox"/>
SMF17	Money Laundering Reporting Officer (MLRO)	<input type="checkbox"/>
SMF18	Other Overall Responsibility	<input type="checkbox"/>
SMF24	Chief Operations	<input type="checkbox"/>

Function	Description of <i>senior management function</i>	Allocated?
SMF27	Partner	<input type="checkbox"/>

**2.02** *Individuals at core SMCR firms* will be automatically converted to new mapped *senior management functions*, where applicable. The only exception is in the case of a *firm's* Chair (see below).

Under the *Approved Persons Regime (APR)*, we do not specifically approve the *firm's* Chair (*individuals* are approved under a CF2 – *Non-Executive Director* function). It is not possible to automatically convert such *individuals* to the new *senior management function*. As such, *firms* should use this form to notify us that a CF2 will be performing the Chair role under the *SMCR*. Failure to do so will mean that the *individual* will not be approved to perform the SMF9 role at Commencement.

**Core SMCR firms should only use this form where an existing CF2 (Non-Executive Director) under APR will be performing the SMF9 (Chair of the Governing Body) role at the firm.**

Function	Description of <i>senior management function</i>	UK core SMCR firm	Effective Date
SMF 9	Chair of the Governing Body	<input type="checkbox"/>	

**2.03** Provide details of each currently approved person who will perform a *senior management function* following the commencement date in accordance with the Bank of England and Financial Services Act 2016 and section [XXXX] of the *FCA Handbook*, and provide details of which *senior management functions* are to be carried out by each such approved person. **If this is an update to a previous conversion notification, please complete Section 3.**

**Note that *individuals* may only be mapped from their existing APR controlled function to an appropriate *senior management function (SMF)* as set out in Annex [X].**

Function	Description of <i>senior management function</i>	Name of person to whom allocation of <i>senior management function</i> is proposed	Current <i>controlled function(s)</i> held	IRN
<b>SMF 1</b>	Chief Executive			
<b>SMF 2</b>	Chief Finance			
<b>SMF 3</b>	Executive Director			
<b>SMF 4</b>	Chief Risk			
<b>SMF 5</b>	Head of Internal Audit			
<b>SMF 7</b>	Group Entity Senior Manager			
<b>SMF 9</b>	Chair of the Governing Body			
<b>SMF10</b>	Chair of the Risk Committee			
<b>SMF11</b>	Chair of the Audit Committee			
<b>SMF12</b>	Chair of the Remuneration Committee			
<b>SMF13</b>	Chair of the Nomination Committee			
<b>SMF14</b>	Senior Independent Director			
<b>SMF16</b>	Compliance Oversight			
<b>SMF17</b>	Money Laundering Reporting Officer (MLRO)			
<b>SMF18</b>	Other Overall Responsibility			
<b>SMF24</b>	Chief Operations			
<b>SMF27</b>	Partner			

**2.04** If you have submitted any applications for approval of *individuals* to perform one or more *significant influence functions* that are currently subject to determination by the *FCA* and any of these *individuals* will perform a *senior management function* following commencement date in accordance with the Bank of England and Financial Services Act 2016, and the [XXXX], provide details below of which *senior management functions* are to be carried out by each such *approved person*.

<b>Function</b>	<b>Description of <i>senior management function</i></b>	<b>Name of person to whom allocation of <i>senior management function</i> is proposed</b>	<b><i>Controlled functions</i> applied for</b>	<b>IRN or application reference</b>
<b>SMF 1</b>	Chief Executive			
<b>SMF 2</b>	Chief Finance			
<b>SMF 3</b>	Executive Director			
<b>SMF 4</b>	Chief Risk			
<b>SMF 5</b>	Head of Internal Audit			
<b>SMF 7</b>	Group Entity Senior Manager			
<b>SMF 9</b>	Chair of the Governing Body			
<b>SMF10</b>	Chair of the Risk Committee			
<b>SMF11</b>	Chair of the Audit Committee			
<b>SMF12</b>	Chair of the Remuneration Committee			
<b>SMF13</b>	Chair of the Nomination Committee			
<b>SMF14</b>	Senior Independent Director			
<b>SMF16</b>	Compliance Oversight			
<b>SMF17</b>	Money Laundering Reporting Officer (MLRO)			
<b>SMF18</b>	Other Overall Responsibility			
<b>SMF24</b>	Chief Operations			
<b>SMF27</b>	Partner			

**2.05** If there are one or more *individuals* currently approved to perform *significant influence function* CF2, who will remain at the *firm* in the capacity of a *non-executive director* following commencement date, and such *individuals* are not listed above in Section 2.01, please list them below.

IRN	Name of <i>individual</i>

**2.06** If you have submitted any applications for approval of *individuals* to *significant influence function* CF2 under the *approved persons* regime that are currently subject to determination by the *FCA*, who will remain at the *firm* in the capacity of a *non-executive director* following commencement date, and such *individuals* are not listed above in Section 2.02, please list them below.

IRN	Name of <i>individual</i>

**Update Notification** **Section 3**

**3.00** If you need to update or correct a previous conversion notification, please provide details of these amendments below.

IRN	Name of <i>individual</i>
Controlled Function	Proposed Senior Management Function(s)
Details of change and reasons for such change.	

IRN	Name of <i>individual</i>
Controlled Function	Proposed Senior Management Function(s)
Details of change and reasons for such change.	



## Statements of Responsibilities and Management Responsibilities Map Section 4

**4.00** If submitting this form as an *enhanced scope SMCR firm*, please attach a *statement of responsibilities* for each *individual* identified in this form as being converted to perform one or more *senior management functions*. Please also attach the *firm's management responsibilities map*.

A *core SMCR firm* which is completing this form to convert a CF2 to the Chair *senior management function* does not need to attach the *statement of responsibilities* for the Chair.

**4.01** How many additional sheets are being submitted?

**Declarations and signatures** **Section 5**

**Declaration**

In this declaration, the *firm* making the notification in relation to each *individual* is referred to as the “**applicant**”.

The applicant must ensure that it has the authority of each *individual* in relation to whom it is making a notification for conversion to a *senior management function* to cause the information contained in this form relating to such *individual* to be submitted, and that it has made each such *individual* aware of their prospective regulatory responsibilities as set out in the *FCA’s Code of Conduct (COCOM)*.

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act 2000 – ‘FSMA’).

The applicant must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided.

In addition to other regulatory responsibilities, *firms* and *approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the *firm* and/or *individuals*.

For the purposes of complying with *data protection legislation*, please read the *FCA’s* privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

The person signing on behalf of the applicant confirms that:

- they have read this declaration in full;
- they have confirmed that the information supplied is accurate and complete to the best of their knowledge, and that each *statement of responsibility* submitted with this form accurately reflects the aspects of the affairs of the applicant which it is intended that the relevant *individual* will be responsible for managing in performing their proposed *senior management functions*.

Name of the *applicant*

Name of *person* signing on behalf of the *applicant*

Position

Signature

Date

Notification number  
(for FCA use only)

## Form O – Notification of change to firm classification under the Senior Managers & Certification Regime (Pre-Commencement version)

*FCA Handbook* Reference: SUP TP 12

Terms defined in the *FCA Handbook* are italicised and should be construed accordingly.

This form can only be used by solo-regulated SMCR *firms*. It is not relevant to dual regulated SMCR *firms*, appointed representatives or SMCR *firms* that are defined as an *enhanced scope SMCR firm* because they meet the qualification criteria in SYSC 23 Annex 1.

*Limited scope SMCR firms* and *core SMCR firms* can use this form to notify the FCA that they agree to be subject to the rules for *enhanced scope SMCR firms*, set out in SYSC 23 Annex 1. *Limited scope SMCR firms* can use this form to notify the FCA that they agree to be subject to the rules for *core SMCR firms*, set out in SYSC 23 Annex 1.

The pre-Commencement version of Form O can be submitted up to six months before the regime takes effect. If it is submitted three months or less before the regime takes effect, *firms* will need to submit the supporting documentation listed in Section 2 at the same time.

The opt-up will take effect at Commencement. To withdraw a notification, *firms* must write to us before the opt-up takes effect. Once the opt-up has taken effect, *firms* can use Form O to revert to the SMCR classification defined in SYSC 23 Annex 1. This will be effective one year from the date of notification.

*Firms* opting-up should ensure they understand and are in a position to comply with the relevant rules, set out in the FCA's Senior management arrangements, Systems and Controls (SYSC), Supervision (SUP), Code of Conduct (COCOM) sourcebooks. The decision should be made at the appropriate levels and approved at *governing body* level. As a result of opting-up, *firms* will be subject to rules relating to additional Senior Management Functions and Prescribed Responsibilities. *Firms* opting-up to *enhanced scope SMCR firm* classification will also be subject to requirements on Responsibilities Maps, Handover Procedures and Overall Responsibilities.

[Commencement Date]

Name of *firm*

*Firm* Reference Number (FRN)



Financial Conduct Authority

12 Endeavour Square

Stratford

London E20 1JN

United Kingdom

Telephone +44 (0) 300 500 0597

E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

Website <http://www.fca.org.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

## Contact Details

## Section 1

### 1.1 Contact for this notification (at the *notifying firm*)

Title	
First name	
Surname	
Job title	
Business address	
Postcode	
Phone number	
Email address	

**Notification that the firm is opting-up** **Section 2**

If this notification is being made more than three months before the Regime commences, please proceed to Section 3.

**2.01 Changes to the SMCR classification of the firm**

Please indicate the type of notification you are making.

Notification type	Firm response
Core SMCR firm agreeing to be subject to the rules for <i>enhanced scope SMCR firms</i>	<input type="checkbox"/>
Limited scope SMCR firm agreeing to be subject to the rules for <i>core SMCR firms</i>	<input type="checkbox"/>
Limited scope SMCR firm agreeing to be subject to the rules for <i>enhanced scope SMCR firms</i>	<input type="checkbox"/>

**2.02 Supporting documents**

Please tick to confirm that you are submitting the supporting documents listed in the table below with this notification. These documents must be submitted up to three months and at least one week before Commencement.

Supporting documents	Firms opting-up to <i>Enhanced scope SMCR firm classification</i>	Limited Scope SMCR firms opting-up to <i>core SMCR firm classification</i>
Form A applications for new <i>senior management functions</i>	<input type="checkbox"/>	<input type="checkbox"/>
Form K – Conversion notification	<input type="checkbox"/>	<input type="checkbox"/> *

\*Only required if a CF2 Non-Executive Director is going to perform the SMF9 – Chair function

## Declarations and signatures

## Section 3

In this declaration, the authorised *firm* making the notification is referred to as the “*firm*”.

The person signing on behalf of the *firm* confirms that:

- they have read this declaration in full;
- they have the authority of the *firm's governing body* to make this notification;
- the *firm's governing body* understands their regulatory responsibilities following the opt-up, as set out in the *FCA's Senior management arrangements, Systems and Controls (SYSC), Supervision (SUP), Code of Conduct (COCON) sourcebooks*;
- the *firm's governing body* understands that, once the opt-up takes effect, the *notifying firm* will not be able to revert to its previous *SMCR* classification (as defined in *SYSC 23 Annex 1*) for at least one year.

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act 2000). The *notifying firm* must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided.

For the purposes of complying with *data protection legislation*, please read the *FCA's* privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

Name of the authorised *firm*

Name of *person* signing on behalf of the authorised *firm*

Position

Signature

Date

**Part 2: Comes into force [ ] 20[ ] [main commencement date for solo-regulated firms]**



Application number  
(for FCA use only)

The FCA has produced notes which will assist both the applicant *firm* and the *candidate* in answering the questions in this form. Please read the notes, which are available on the FCA's website at:  
<https://www.handbook.fca.org.uk/handbook/SUP/10C/Annex3D.html>

Both the *applicant* and the *candidate* will be treated by the FCA as having taken these notes into consideration when completing this form.

## Long Form A – Solo-regulated firms (including EEA and third country)

### Application to perform *controlled functions* including *senior management functions*

FCA Handbook Reference: SUP 10C Annex 3D

[Commencement Date]

Name of *candidate*  
(to be completed by applicant *firm*)

Name of applicant *firm*  
(as entered in 2.01)

*Firm* reference number  
(as entered in 2.02)

Financial Conduct Authority  
12 Endeavour Square  
Canary Wharf  
London E20 1JN  
United Kingdom  
Telephone +44 (0) 300 500 0597  
E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)  
Website <http://www.fca.org.uk>  
Registered as a Limited Company in England and  
Wales No 1920623. Registered Office as above

<b>1.01 a</b>	<i>Candidate</i> Individual Reference Number (IRN)	
<b>b</b>	OR name of previous <i>regulatory body</i>	
<b>c</b>	AND previous reference number (if applicable)	
<b>1.02</b>	Title (e.g. Mr, Mrs, Ms)	
<b>1.03</b>	Surname	
<b>1.04</b>	ALL forenames	
<b>1.05</b>	Name commonly known by	
<b>1.06</b>	Date of birth (dd/mm/yyyy)	
<b>1.07</b>	National Insurance number	
<b>1.08</b>	Previous name	
<b>1.09</b>	Date of name change	
<b>1.10 a</b>	Nationality	
<b>b</b>	Passport number (if National Insurance number not available)	
<b>1.11</b>	Place of birth	
<b>1.12</b>	<b>Phone number</b>	
<b>1.13</b>	<b>Email address</b>	



I have supplied further information related to this page in Section 6

YES

NO

1.14 a Private address

[Redacted address information]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date]

To

PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)

1.15 a Previous address 1

[Redacted address information]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date]

To

[Redacted date]

1.15 a Previous address 2

[Redacted address information]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date]

To

[Redacted date]



I have supplied further information related to this page in Section 6

YES

NO

2.01	Name of <i>firm</i> making the application	<input type="text"/>
2.02	<i>Firm</i> Reference Number (FRN)	<input type="text"/>
2.03 a	Who should the <i>FCA</i> contact at the <i>firm</i> in relation to this application?	<input type="text"/>
B	Position	<input type="text"/>
C	Phone number	<input type="text"/>
D	E-mail	<input type="text"/>



I have supplied further information related to this page in Section 6

YES

NO

# Arrangement and Senior Management Functions Section 3A

Complete this section if the application is for a *senior management function*. If you are submitting an application for a *controlled function* at an *appointed representative*, then please complete Section 3B.

**3A.01** Nature of the arrangement between the candidate and the applicant firm.

<i>a</i>	Employee	<input type="checkbox"/>
<hr/>		
<i>b</i>	Group employee	<input type="checkbox"/>
<hr/>		
	Name of group	
<hr/>		
<i>c</i>	Contract for services	<input type="checkbox"/>
<hr/>		
<i>d</i>	Partner	<input type="checkbox"/>
<hr/>		
<i>f</i>	Other	<input type="checkbox"/>
<hr/>		
	Give details	
<hr/>		

Proposed date of appointment

Length of appointment (if applicable)

**3A.02** For applications from a single firm, please tick the boxes that correspond to the *senior management functions* to be performed. If the *senior management functions* are to be performed for more than one firm, please leave the boxes below blank and go to question **3A.04**

Function	Description of <i>senior management function</i>	Tick (if applicable)					Enhanced scope SMCR firms	Effective Date
		Core firms						
		Limited scope SMCR firms	UK core SMCR firms	EEA core SMCR firms	Third country branches			
SMF 1	Chief Executive	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		
SMF 2	Chief Finance					<input type="checkbox"/>		
SMF 3	Executive Director	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF 4	Chief Risk					<input type="checkbox"/>		
SMF 5	Head of Internal Audit					<input type="checkbox"/>		
SMF 7	Group Entity Senior Manager					<input type="checkbox"/>		
SMF 9	Chair of the Governing Body	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		
SMF10	Chair of the Risk Committee					<input type="checkbox"/>		
SMF11	Chair of the Audit Committee					<input type="checkbox"/>		
SMF12	Chair of the Remuneration Committee					<input type="checkbox"/>		
SMF13	Chair of the Nomination Committee					<input type="checkbox"/>		
SMF14	Senior Independent Director					<input type="checkbox"/>		
SMF16	Compliance Oversight	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF17	Money Laundering Reporting Officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
SMF18	Other overall responsibility function					<input type="checkbox"/>		
SMF19	Head of Third Country Branch				<input type="checkbox"/>			
SMF21	EEA Branch Senior Manager			<input type="checkbox"/>				
SMF24	Chief Operations					<input type="checkbox"/>		
SMF27	Partner	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF29	Limited scope function ( <i>limited scope SMCR firms only</i> )	<input type="checkbox"/>						

3A.03 Job title

**Insurance Distribution**

Will the *candidate* be responsible for insurance distribution at the *firm*? YES  NO

(Note: Yes can only be selected if the *individual* is applying for a *governing function* (other than a *non-executive director function*))

**Mortgage Credit Directive**

Will the *candidate* be responsible for Mortgage Credit Directive Intermediation at the *firm*? YES  NO

(Note: Yes can only be selected if the *individual* is applying for a *governing function* (other than a *non-executive director function*))



I have supplied further information related to this page in Section 6

YES  NO

3A.04

Complete this section only if the application is on behalf of more than one firm.

List all firms within the group (including the firm entered in 2.01) for which the candidate requires approval and the requested senior management function for that firm. †

	<b>Firm Reference Number</b>	<b>Name of firm</b>	<b>Senior Management Function</b>	<b>Job title</b>	<b>Responsible for insurance distribution?</b>	<b>Responsible for MCD credit intermediation?</b>	<b>Effective date</b>
<b>a</b>							
<b>b</b>							
<b>c</b>							
<b>d</b>							
<b>e</b>							



I have supplied further information related to this page in Section 6 YES

NO



# Arrangements and controlled functions – Appointed Representatives

## Section 3B

Complete this section if the application is for a *controlled function* at an *appointed representative (AR)*. If you are submitting an application for a *senior management function*, then please complete Section 3A.

For *limited permission* consumer credit firms that are also *appointed representatives*, only the *customer function* is relevant in this section. For these *firms*, relevant *senior management functions* apply instead of the *governing functions* (ie CF1 (AR), CF3 (AR), CF4 (AR) and CF5 (AR)). We do not expect this to apply to many *firms*.

**3B.01** Nature of the *arrangement* between the *candidate* and the applicant.

<i>a</i>	Appointed representative/tied agent – customer function <input type="checkbox"/>	
	AR firm name and reference number	
<i>b</i>	Appointed representative/tied agent – governing function <input type="checkbox"/>	
	AR firm name and reference number	
<i>c</i>	Other <input type="checkbox"/>	
	Give details	

**3B.02** For applications from a single *firm*, please tick the boxes that correspond to the *controlled functions* to be performed. If the *controlled functions* are to be performed for more than one *firm*, please go to question **3B.05**.

<i>a</i>	<b>Significant influence functions</b>	CF 1 (AR) <i>Director function</i> <input type="checkbox"/> CF 3 (AR) <i>Chief executive function</i> <input type="checkbox"/> CF 4 (AR) <i>Partner function</i> <input type="checkbox"/> CF 5 (AR) <i>Director of an unincorporated association function</i> <input type="checkbox"/>
<i>b</i>	<b>Senior Management Functions</b>	SMF1 (AR) <i>Chief Executive function</i> <input type="checkbox"/> SMF3 (AR) <i>Executive Director function</i> <input type="checkbox"/> SMF4 (AR) <i>Partner function</i> <input type="checkbox"/>
	<i>(This section is only applicable for limited permission consumer credit firms that are ARs for other businesses)</i>	
<i>c</i>	<b>Customer function</b>	CF 30 (AR) <i>Customer function</i> <input type="checkbox"/>

**3B.03** Effective date of *controlled functions* indicated above

**3B.04** Job title  
Please refer to notes on the requirements for submitting a CV



I have supplied further information related to this page in Section 6†

YES

NO

**3B.05**

**Complete this section only if the application is on behalf of more than one *firm*.**

List all *firms* within the *group* (including the *firm* entered in **2.01**) for which the *candidate* requires approval and the requested *controlled function* for that *firm*.<sup>†</sup>

	<i>Firm Reference Number</i>	<i>Name of firm</i>	<i>Controlled function</i>	<i>Job title</i>	<i>Effective date</i>
a					
b					
c					
d					
e					



I have supplied further information related to this page in Section 6

YES

NO

N.B.: ALL gaps must be accounted for

## 4.01 Employment details (1)

<b>a</b>	Period (dd/mm/yyyy)	From	<input type="text"/>	To	<input type="text"/>
<b>b</b>	Nature of employment	<i>a</i>	Employed	<input type="checkbox"/>	
		<i>b</i>	Self-employed	<input type="checkbox"/>	
		<i>c</i>	Not employed	<input type="checkbox"/>	
		<i>d</i>	Full-time education	<input type="checkbox"/>	
	If <i>c</i> or <i>d</i> is ticked, please give details				
	<input type="text"/>				
<b>c</b>	Name of <i>employer</i>	<input type="text"/>			
<b>d</b>	Nature of business	<input type="text"/>			
<b>e</b>	Previous / other names of employer	<input type="text"/>			
<b>f</b>	Last known address of employer	<input type="text"/>			
<b>g</b>	Is/was employer regulated by a <i>regulatory body</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	Name of regulatory body	
				<input type="text"/>	
<b>h</b>	Is/was employer an <i>appointed representative/tied agent</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If yes, of which <i>firm</i> ?	
				<input type="text"/>	
<b>i</b>	Position held	<input type="text"/>			
<b>j</b>	Responsibilities	<input type="text"/>			
<b>k</b>	Reason for leaving:	<i>a</i>	Resignation	<input type="checkbox"/>	
		<i>b</i>	Redundancy	<input type="checkbox"/>	
		<i>c</i>	Retirement	<input type="checkbox"/>	
		<i>d</i>	Termination/dismissal	<input type="checkbox"/>	
		<i>e</i>	End of contract	<input type="checkbox"/>	
		<i>f</i>	Other	<input type="checkbox"/>	

Specify

**4.02 Employment details (2)**

**a** Period (dd/mm/yyyy) From  To

**b** Nature of employment

<i>a</i>	Employed	<input type="checkbox"/>
<i>b</i>	Self-employed	<input type="checkbox"/>
<i>c</i>	Not employed	<input type="checkbox"/>
<i>d</i>	Full-time education	<input type="checkbox"/>

If *c* or *d* is ticked, please give details

**c** Name of *employer*

**d** Nature of business

**e** Previous / other names of employer

**f** Last known address of employer

**g** Is/was employer regulated by a *regulatory body*? YES  NO  Name of regulatory body

**h** Is/was employer an *appointed representative/tied agent*? YES  NO  If yes, of which *firm*?

**i** Position held

**j** Responsibilities

**k** Reason for leaving:

<i>a</i>	Resignation	<input type="checkbox"/>
<i>b</i>	Redundancy	<input type="checkbox"/>
<i>c</i>	Retirement	<input type="checkbox"/>
<i>d</i>	Termination/dismissal	<input type="checkbox"/>
<i>e</i>	End of contract	<input type="checkbox"/>
<i>f</i>	Other	<input type="checkbox"/>

If 'other', please specify

**➔** I have supplied further information related to this page in Section 6 YES  NO

**5.01 Criminal Proceedings**

When answering the questions in this section the *candidate* should include matters whether in the *UK* or overseas. By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, if the *candidate* is subject to the law of England and Wales, *candidate* must disclose spent convictions and cautions (other than a protected conviction or caution). By virtue of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2013 and the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, if the *candidate* is subject to the law of Scotland or Northern Ireland, the *candidate* must disclose spent convictions (other than a protected conviction).

For the avoidance of doubt, references to the legislation above are references to the legislation as amended.

**If any question has been answered ‘yes’ in Section 5, further details should be provided in Section 6**

If there is any other information the *candidate* or the *firm* considers to be relevant to the application, it must be included in Section 6

<b>5.01.1a</b>	Has the <i>candidate</i> <b>ever</b> been convicted of any criminal offence (whether spent or not and whether or not in the <i>United Kingdom</i> ): <ul style="list-style-type: none"> <li>i. involving fraud, theft, false accounting, offences against the administration of public justice (such as perjury, perverting the course of justice and intimidation of witnesses or jurors), serious tax offences or other dishonesty or</li> <li>ii. relating to <i>companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, money laundering, market manipulations or insider dealing?</i></li> </ul>	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>b</b>	Is the <i>candidate</i> currently the subject of any criminal proceedings, whether in the UK or elsewhere?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>c</b>	Has the <i>candidate</i> <b>ever</b> been given a caution in relation to any criminal offence?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>5.01.2</b>	Has the <i>candidate</i> any convictions for any offences other than those in <b>5.01.1</b> above (excluding traffic offences that did not result in a ban from driving or did not involve driving without insurance)?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>5.01.3</b>	Is the candidate the subject of any ongoing criminal investigation?	YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>5.01.4</b>	Has the <i>candidate</i> been ordered to produce documents pursuant to any ongoing criminal investigation or been the subject of a search (with or without a warrant) pursuant to any ongoing criminal investigation? In answering question <b>5.01.4</b> , you should include all matters even where the candidate was not the subject of the investigation.	YES <input type="checkbox"/> NO <input type="checkbox"/>



I have supplied further information related to this page in Section 6    YES       NO

**5.01.5** Has any *firm* at which the *candidate* holds or has held a position of influence ever:

(Please check the guidance notes for the meaning of 'position of influence' in the context of the questions in this part of the form.)

- |          |  |                              |                             |
|----------|--|------------------------------|-----------------------------|
| <b>a</b> | Been convicted of any criminal offence?  | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| <b>b</b> | Been summonsed, charged with or otherwise investigated or prosecuted for any criminal offence?   | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| <b>c</b> | Been the subject of any criminal proceeding which has not resulted in a conviction?  | YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| <b>d</b> | Been ordered to produce documents in relation to any criminal investigation or been the subject of a search (with or without a warrant) in relation to any criminal investigation? | YES <input type="checkbox"/> | NO <input type="checkbox"/> |

In answering question **5.01.5**, you should include all matters even when the summons, charge, prosecution or investigation did not result in a conviction, and, in respect of **5.01.5d**, even where the *firm* was not the subject of the investigation. However, *firms* are not required to disclose details of any specific *individuals* who were subject to historic (as opposed to ongoing) criminal investigations, prosecutions, summons or other historic criminal proceedings.



I have supplied further information related to this page in Section 6

YES

NO

**5.02 Civil Proceedings**

**5.02.1** Has the *candidate*, **ever** been the subject of a judgement debt or award against the *candidate*? (whether satisfied or not?) YES  NO

Please give a full explanation of the events in questions.

*The candidate* should include all County Court Judgement(s) (CCJs) made against the *candidate*, whether satisfied or not); and  
i) the sum and date of all judgements debts, awards or CCJs (whether satisfied or not); and  
ii) the total number of all judgement debts, awards or CCJs ordered.

**5.02.2** Has the *candidate* ever been party to any civil proceedings which resulted in any order against the *candidate* (other than a judgement debt or award referred to in **5.02.1** above)? (the *candidate* should include, for example, injunctions and employment tribunal proceedings.) YES  NO

**5.02.3** Is the *candidate* aware of:  
**a** Any proceedings that have begun or anyone's intention to begin proceedings against the *candidate*, for a CCJ or another judgement debt? YES  NO

**b** More than one set of proceedings, or anyone's intention to begin more than one set of proceedings, that may lead to a CCJ or other judgement debt? YES  NO


YES  NO

**5.02.4** Does the *candidate* have any **current** judgement debts (including CCJs) made under a court order still outstanding, whether in full or in part? YES  NO

**5.02.5** Has the *candidate* **ever** failed to satisfy any such judgment debts (including CCJs) made under a court order still outstanding, whether in full or part, within one year of the order being made? YES  NO



I have supplied further information related to this page in Section 6 YES  NO

<b>5.02.6</b>	Has the <i>candidate</i> ever:		
<b>a</b>	Filed for the <i>candidate</i> 's own bankruptcy or had a bankruptcy petition served on the <i>candidate</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>b</b>	Been adjudged bankrupt?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>c</b>	Been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order) or offered a bankruptcy restrictions undertaking?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>d</b>	Made any arrangements with the <i>candidate</i> 's creditors, for example a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>e</b>	Had assets sequestrated?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>f</b>	Been involved in any proceedings relating to the above matters even if such proceedings did not result in the making of any kind of order against the <i>candidate</i> or result in any kind of agreement with the <i>candidate</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>5.02.7</b>	Does the <i>candidate</i> , or any undertaking under their management, have any outstanding financial obligations arising from <i>regulated activities</i> , which have been carried out in the past (whether or not in the <i>UK</i> or overseas)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>5.02.8</b>	Has the <i>candidate</i> ever been adjudged by a court or tribunal (whether criminal, civil or administrative) for any fraud, misfeasance, negligence, wrongful trading or other misconduct? Or been found by a judge or tribunal to have lied on oath and/or that their evidence was to be disbelieved?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>5.02.9</b>	Is the <i>candidate</i> currently:		
<b>a</b>	Party to any civil proceedings (including those covered in <b>5.02.7</b> above)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>b</b>	Aware of anybody's intention to begin civil proceedings against the <i>candidate</i> ? ( <i>Candidate</i> should include any ongoing disputes whether or not such dispute is likely to result in any order against the <i>candidate</i> .)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>5.02.10</b>	During the period over which the <i>candidate</i> has held a position of influence and/or in the 10 years after this, has any <i>firm</i> at which the <i>candidate</i> holds or has held a position of influence <b>ever</b> been:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>a</b>	Adjudged by a court civilly liable for any fraud, misfeasance, wrongful trading or other misconduct?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>b</b>	The subject of a judgement debt or award against the <i>firm</i> ? ( <i>Candidate</i> should include all CCJs made against the <i>firm</i> , whether satisfied or not.)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>c</b>	Party to any other civil proceedings which resulted in an order against the <i>firm</i> other than in relation to matters covered in <b>5.02.10a</b> and <b>5.02.10b</b> above?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
		I have supplied further information related to this page in Section 6	YES <input type="checkbox"/> NO <input type="checkbox"/>



**5.02.11** Is any *firm* at which the *candidate* currently holds or has held, within the last 12 months from the date of the submission of this form, a position of influence currently:

**a** a party to civil proceedings; and/or?

YES  NO

**b** aware of anyone's intention to begin civil proceedings against them?

YES  NO

**5.02.12** Has any company, partnership or unincorporated association of which the *candidate* is or has been a controller, director, *senior manager*, partner or company secretary, in the *UK* or elsewhere, at any time during their involvement, or within one year of such an involvement, been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors?

YES  NO



I have supplied further information related to this page in Section 6

YES  NO

**5.03 Business and Employment Matters**

**5.03.1** Has the *candidate* ever been:

- a** Disqualified from acting as a director or similar position (one where the *candidate* acts in a management capacity or conducts the affairs of any company, partnership or unincorporated association)? YES  NO
- b** The subject of any proceedings of a disciplinary nature (whether or not the proceedings resulted in any finding against the *candidate*)? YES  NO
- c** The subject of any investigation which has led or might lead to disciplinary proceedings? YES  NO
- d** Notified of any potential proceedings of a disciplinary nature against the *candidate*? YES  NO
- e** The subject of an investigation into allegations of misconduct or malpractice in connection with any business activity? (This question covers internal investigation by an authorised *firm*, as well as investigation by a *regulatory body*, at any time.) YES  NO

**5.03.2** Has the *candidate* ever been refused entry to, or been dismissed, suspended or requested to resign from, any professional, vocation, office or employment, or from any fiduciary office or position of trust whether or not remunerated? YES  NO

**5.03.3** Does the *candidate* have any material written complaints made against the *candidate* by the *candidate's* clients or former clients in the last five years which the *candidate* has accepted, or which are awaiting determination, or have been upheld – by an ombudsman or complaints scheme? YES  NO



I have supplied further information related to this page in Section 6 YES  NO

## 5.04 Regulatory Matters

### 5.04.1

In relation to activities regulated by the *FCA* or any other *regulatory body* (see the guidance notes on Section 5), has:

- the *candidate*, or
- any company, partnership or unincorporated association of which the *candidate* is or has been a controller, director, *senior manager*, partner or company secretary, during the *candidate's* association with the entity and for a period of three years after the *candidate* ceased to be associated with it, **ever** –

<b>a</b>	Been refused, had revoked, restricted, been suspended from or terminated, any licence, authorisations, registration, notification, membership or any other permission granted by any such body?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>b</b>	Been criticised, censured, disciplined, suspended, expelled, fined or been the subject of any other disciplinary or interventional action by any such body?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>c</b>	Received a warning (whether public or private) that such disciplinary or interventional action may be taken against the <i>candidate</i> or the <i>firm</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>d</b>	Been the subject of an investigation by any <i>regulatory body</i> , whether or not such an investigation resulted in a finding against the <i>candidate</i> or the <i>firm</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>e</b>	Been required or requested to produce documents or any other information to any <i>regulatory body</i> in connection with such an investigation (whether against the <i>firm</i> or otherwise)?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>f</b>	Been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>g</b>	Ceased operating or resigned whilst under investigation by any such body or been required to cease operating or resign by any <i>regulatory body</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>h</b>	Decided, after making an application for any licence, authorisation, registration, notification, membership or any permission granted by any such body, not to proceed with it?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>i</b>	Been the subject of any civil action related to any <i>regulated activity</i> which has resulted in a finding by a court?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>j</b>	Provided payment services or distributed or redeemed e-money on behalf of a regulated <i>firm</i> or itself under any contractual agreement where that agreement was terminated by the regulated <i>firm</i> ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<b>k</b>	Been convicted of any criminal offence, censured, disciplined or publicly criticised by any inquiry, by the Takeover Panel or any governmental or statutory authority or any other regulatory body (other than as indicated in this group of questions).	YES <input type="checkbox"/>	NO <input type="checkbox"/>



I have supplied further information related to this page in Section 6

YES  NO

**5.04.2**

In relation to activities regulated by the *FCA* or any other *regulatory body*, has the *candidate* or any *firm* at which the *candidate* holds or has held a position of influence at any time during and within one year of the *candidate's* association with the *firm* ever:

- a**      Been found to have carried on activities for which authorisation or registration by the *FCA* or any other *regulatory body* is required without the requisite authorisations?      YES       NO
- b**      Been investigated for the possible carrying on of activities requiring authorisation or registration by the *FCA* or any other *regulatory body* without the requisite authorisation whether or not such investigation resulted in a finding against the *candidate*?      YES       NO
- c**      Been found to have performed a *senior management function* or other *controlled function* (or an equivalent function requiring approval by the *FCA* or any other regulatory body) without the requisite approval?      YES       NO
- d**      Been investigated for the possible performance of a *senior management function* or other *controlled function* (or an equivalent function requiring approval by the *FCA* or any other *regulatory body*) without the requisite approval, whether or not such investigation resulted in a finding against the *candidate*?      YES       NO
- e**      Been found to have failed to comply with an obligation under the Electronic Money Regulations 2011 or Payment Services Regulations 2009 to notify the *FCA* of the identity of a person acting in a position of influence over its electronic money or payment services business?      YES       NO
- f**      Been the subject of a prohibition order under section 56 FSMA, or received a warning notice proposing that such a direction or order be made, or received a private warning?      YES       NO



I have supplied further information related to this page in Section 6

YES       NO

**5.05 Other Matters**

**5.05.1** Is the *candidate*, in the role to which the application relates, aware of any business interests, employment obligations, or any other circumstance which may conflict with the performance of the *senior management functions* for which approval is now being sought?

YES  NO

**5.05.2** Is the *candidate* or the *firm* aware of any other information relevant to this notification that the *FCA* might reasonably expect from the *candidate*?

YES  NO

**5.05.3** Has the *firm* undertaken a criminal records check in accordance with the requirements of the *FCA*?

Please note that a *firm* is required to request the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 (Certificates of Criminal records, etc) and related subordinated legislation of the *UK* or any part of the *UK* before making the application. (SUP 10C.10)

YES  NO

If yes, please enter date the check was undertaken

Date (dd/mm/yy):

*Note: if date is more than 3 months prior to current date or 3 months prior to date of application submission or the check has not been undertaken, please provide details why in Section 6.*



I have supplied further information related to this page in Section 6

YES  NO

**5.05.4** Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the *FCA*?  
If No, please provide details why the reference or references has/have not been obtained.

YES  NO

*Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22). "Employer" has an extended meaning for these purposes.*

**6.01 Please provide full details of:**

- a) why the *candidate* is competent and capable to carry out the *controlled function(s)* applied for;
- b) why the appointment complements the *firm's* business strategy, activity and market in which it operates;
- c) how the appointment was agreed including details of any discussions at *governing body* level (where applicable);
- d) a list of all directorships currently or previously held by the *candidate* in the past 10 years (where *director* has the meaning given in the Glossary); and

**6.02**

**If there is any additional information indicated in previous sections or any other information the *candidate* or the *firm* considers being relevant to this application it must be included here.** (Please also provide full details of any issues that could affect the *Fitness and Propriety* of the individual that arose when leaving an employer listed in Section 4 or if any question has been answered 'yes' in Section 5)

Question	Information

**6.03 Firms must also provide the following supporting documents required with this form (please tick)**

	<b><i>Statement of responsibilities</i></b>
	<b><i>Candidate's Curriculum Vitae (C.V)</i></b>
	<b>Role(s) description</b>
	<b>Organisational chart</b>
	<b>A description or copy of the <i>candidate's</i> Skills Gap Analysis</b>
	<b>A description or copy of the <i>candidate's</i> Induction programme</b>
	<b>A description or copy of the <i>candidate's</i> Learning and Development plan (including the name of the <i>individual</i> responsible for monitoring the <i>candidate's</i> progress against the development points and the time frame for completion)</b>
	<b>A description or documentation setting out how the competency was assessed (demonstrating competence and suitability mapped to the specific role and responsibilities of the role).</b>
<b>6.04</b>	In addition, <i>enhanced scope SMCR firms</i> must also provide:-
	<b>A copy of the firm's <i>management responsibilities map</i> (SYSC 25 and SUP 10C.9)</b>
	<b>A summary of any handover material (SYSC 25.9 and SUP 10C.10)</b>

## Declaration of *Candidate*

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act 2000 – ‘FSMA’). Even if you believe or know that information has been provided to the *FCA* before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the *FCA* will itself identify such information during the assessment of this application.

There will be a delay in processing the application if information is inaccurate or incomplete, and it may call into question the suitability of the *candidate* and/or lead to the *FCA* exercising their powers (including but not limited to taking disciplinary/ Enforcement action). You must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the *FCA* is reasonably likely to consider the information material).

The *candidate* confirms that the information provided in this application is accurate and complete to the best of his/her knowledge and that he or she has read the notes to this form. The *candidate* will notify the *FCA* immediately if there is a material change to the information provided.

The *candidate* confirms that the attached *statement of responsibilities* accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing. The *candidate* confirms that they have accepted all the responsibilities set out in this *statement of responsibilities*.

The *candidate* agrees that the *FCA* may use the address specified for the *candidate* in this form as the proper address for service in the United Kingdom (as defined in the Financial Services and Markets Act 2000 (Service of Notice) Regulations (SI 2001/1420)) to serve any notices on the *candidate*.

The *candidate* confirms that he or she understands the regulatory responsibilities of the proposed role as set out in the rules of conduct in the *FCA*’s *COCON* or *APER*.

The *candidate* is aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

In addition to other regulatory responsibilities, *firms*, and *approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the Applicant and/or the *candidate*.

For the purposes of complying with *data protection legislation*, please read the *FCA*’s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

Tick here to confirm you have read and understood this declaration:

**7.01** Name of *candidate*

**7.02** Signature

Date

## Declaration of *Firm*

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act – ‘FSMA’). Even if you believe or know that information has been provided to the *FCA* before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the *FCA* will itself identify such information during the assessment of this application.

There will be a delay in processing the application if information is inaccurate or incomplete, and it may call into question the suitability of the *candidate* and/or lead to the *FCA* exercising their powers under FSMA (including but not limited to taking disciplinary/ Enforcement action). You must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the *FCA* is reasonably likely to consider the information material).

In addition to other regulatory responsibilities, *firms*, and *approved persons* have a responsibility to disclose to the *FCA*, matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the Applicant and/or the *candidate*.

The Applicant confirms that the information provided in this application is accurate and complete to the best of its knowledge and that it has read the notes to this form. The Applicant will notify the *FCA* immediately if there is a material change to the information provided.

For the purposes of complying with *data protection legislation*, please read the *FCA*’s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

Where applicable, the Applicant confirms that it has requested the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 and any related subordinate legislation of the *UK* or any part of the *UK*, and (where available) has given due consideration to that information in determining that *candidate* to be fit and proper.

In making this application the Applicant believes on the basis of due and diligent enquiry and, where applicable, by reference to the criteria in *FIT* in the *FCA Handbook* that the *candidate* is a fit and proper person to perform the *controlled function(s)* listed in section 3. The Applicant also believes, on the basis of due and diligent enquiry, that the *candidate* is competent to fulfil the duties required in the performance of such function(s). Note: For *EEA firms*, this would only apply to those *firms* undertaking any Non MiFID business.

The Applicant confirms that it has complied with its obligations under Equality and Diversity legislation when selecting the *candidate* to perform the function(s) applied for.

The Applicant confirms that it has made the *candidate* aware of their regulatory responsibilities as set out in the rules of conduct in the *FCA*’s *COCON* or *APER*.

The Applicant confirms that the *statement of responsibilities* submitted with this form accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing.

The Applicant is aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

In signing this form on behalf of the Applicant:

**I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this form.**

I confirm that I have authority to make this application and provide the declarations given by the Applicant, and sign this form, on behalf of the *firm* identified in Section 2.01 and/or each *firm* identified in Section 3.04. I also confirm that a copy of this form, as submitted to the *FCA*, will be sent to each of those firms at the same time as submitting the form to the *FCA*.

7.03 Name of the *firm* submitting the application

7.04 Name of *person* signing on behalf of the Applicant

7.05 Job title

7.06 Signature

Date



Application number  
(for FCA use only)

The FCA has produced notes which will assist both the applicant *firm* and the *candidate* in answering the questions in this form. Please read these notes, which are available on the FCA website at:  
<https://www.handbook.fca.org.uk/handbook/SUP/10C/Annex3D.html>

Both the applicant *firm* and the *candidate* will be treated by the FCA as having taken these notes into consideration when completing this form.

## Short Form A – Solo-regulated firms (including EEA and third country)

### Application to perform *controlled functions* including *senior management functions*

FCA Handbook Reference: SUP 10C Annex 3D

[Commencement Date]

Name of *candidate*  
(to be completed by applicant *firm*)

Name of applicant *firm*  
(as entered in 2.01)

*Firm* reference number  
(as entered in 2.02)

Financial Conduct Authority  
12 Endeavour Square  
Stratford  
London E20 1JN  
United Kingdom  
Telephone +44 (0) 300 500 0597  
E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)  
Website <http://www.fca.org.uk>  
Registered as a Limited Company in England and  
Wales No 1920623. Registered Office as above

1.01 a	<i>Candidate</i> Individual Reference Number (IRN)	
b	OR name of previous <i>regulatory body</i>	
c	AND previous reference number (if applicable)	
1.02	Title (e.g. Mr, Mrs, Ms)	
1.03	Surname	
1.04	ALL forenames	
1.05	Name commonly known by	
1.06	Date of birth (dd/mm/yyyy)	
1.07	National Insurance number	
1.08	Previous name	
1.09	Date of name change	
1.10 a	Nationality	
b	Passport number (if National Insurance number not available)	
1.11	Place of birth	
1.12	Phone number	
1.13	Email address	



I have supplied further information related to this page in Section 6

YES

NO

1.14 a Private address

[Redacted address field]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date field]

To

PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)

1.15 a Previous address 1

[Redacted address field]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date field]

To

[Redacted date field]

1.16 a Previous address 2

[Redacted address field]

b

Postcode

c

Dates resident at this address (dd/mm/yyyy)

From

[Redacted date field]

To

[Redacted date field]



I have supplied further information related to this page in Section 6

YES

NO

2.01	Name of <i>firm</i> making the application	<input type="text"/>
2.02	<i>Firm</i> Reference Number (FRN)	<input type="text"/>
2.03 a	Who should the <i>FCA</i> contact at the <i>firm</i> in relation to this application?	<input type="text"/>
b	Position	<input type="text"/>
c	Phone number	<input type="text"/>
d	E-mail	<input type="text"/>



I have supplied further information related to this page in Section 6

YES

NO

# Arrangement and Senior Management Functions Section 3A

Complete this section if the application is for a *senior management function*. If you are submitting an application for a *controlled function* at an *appointed representative*, then please complete Section 3B.

<b>3A.01</b>	Nature of the arrangement between the candidate and the applicant firm	a	<i>Employee</i>	<input type="checkbox"/>
		b	<i>Group employee</i>	<input type="checkbox"/>
			Name of group	
		c	Contract for services	<input type="checkbox"/>
		d	<i>Partner</i>	<input type="checkbox"/>
		e	Other	<input type="checkbox"/>
			Give details	
	Proposed date of appointment			
	Length of appointment (if applicable)			

**3A.02** For applications from a single firm, please tick the boxes that correspond to the *senior management functions* to be performed. If the *senior management functions* are to be performed for more than one firm, please go to question **3A.04**

Function	Description of Senior Management Function	Tick (if applicable)					Enhanced scope SMCR firms	Effective Date
		Core firms						
		Limited scope SMCR firms	UK core SMCR firm	EEA core SMCR firms	Overseas core SMCR firm			
SMF 1	Chief Executive	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		
SMF 2	Chief Finance					<input type="checkbox"/>		
SMF 3	Executive Director	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF 4	Chief Risk					<input type="checkbox"/>		
SMF 5	Head of Internal Audit					<input type="checkbox"/>		
SMF 7	Group Entity Senior Manager					<input type="checkbox"/>		
SMF 9	Chair of the Governing Body	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		
SMF10	Chair of the Risk Committee					<input type="checkbox"/>		
SMF11	Chair of the Audit Committee					<input type="checkbox"/>		
SMF12	Chair of the Remuneration Committee					<input type="checkbox"/>		
SMF13	Chair of the Nomination Committee					<input type="checkbox"/>		
SMF14	Senior Independent Director					<input type="checkbox"/>		
SMF16	Compliance Oversight	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF17	Money Laundering Reporting Officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
SMF18	Other overall responsibility function					<input type="checkbox"/>		
SMF19	Head of Third Country Branch				<input type="checkbox"/>			
SMF21	EEA Branch Senior Manager			<input type="checkbox"/>				
SMF24	Chief Operations					<input type="checkbox"/>		
SMF27	Partner	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
SMF29	Limited scope function (limited scope SMCR firms only)	<input type="checkbox"/>						

3A.03 Job title

**Insurance distribution**

Will the *candidate* be responsible for Insurance distribution at the firm? YES  NO

(Note: Yes can only be selected if the *individual* is applying for a *governing function* (other than a *non-executive director function*))

**Mortgage Credit Directive**

Will the *candidate* be responsible for Mortgage Credit Directive Intermediation at the firm? YES  NO

(Note: Yes can only be selected if the *individual* is applying for a *governing function* (other than a *non-executive director function*))



I have supplied further information related to this page in Section 6 YES  NO

3A.04

Complete this section only if the application is on behalf of more than one firm.

List all firms within the group (including the applicant firm entered in 2.01) for which the candidate requires approval and the requested senior management function for that firm.†

	Firm Reference Number	Name of firm	Senior Management Function	Job title	Responsible for insurance distribution	Responsible for MCD credit intermediation ?	Effective date
a							
b							
c							
d							
e							



I have supplied further information related to this page in Section 6

YES

NO



# Arrangements and controlled functions – Appointed Representatives

## Section 3B

Complete this section if the application is for a *controlled function* at an *appointed representative (AR)*. If you are submitting an application for a *senior management function*, then please complete Section 3A.

For *limited permission* consumer credit firms that are also *appointed representatives*, only the *customer function* is relevant in this section. For these firms, relevant *senior management functions* apply instead of the *governing functions* (ie CF1 (AR), CF3 (AR), CF4 (AR) and CF5 (AR)). We do not expect this to apply to many *firms*.

**3B.01** Nature of the *arrangement* between the *candidate* and the applicant.

	<hr/>	
<i>a</i>	Appointed representative/tied agent – customer function <input type="checkbox"/>	
	AR firm name and reference number <input type="text"/>	
<i>b</i>	Appointed representative/tied agent – governing function <input type="checkbox"/>	
	AR firm name and reference number <input type="text"/>	
<i>c</i>	Other <input type="checkbox"/>	
	Give details <input type="text"/>	

**3B.02** For applications from a single *firm*, please tick the boxes that correspond to the *controlled functions* to be performed. If the *controlled functions* are to be performed for more than one *firm*, please go to question **3B.05**.

<i>a</i>	<b>Significant influence functions</b>	CF 1 (AR) Director function <input type="checkbox"/> <input type="checkbox"/> CF 3 (AR) Chief executive function <input type="checkbox"/> CF 4 (AR) Partner function <input type="checkbox"/> CF 5 (AR) Director of an unincorporated association function <input type="checkbox"/>	
<i>b</i>	<b>Senior Management Functions</b> <i>(This section is only applicable for Limited Permission Consumer Credit Firms that are ARs for other business)</i>	SMF1 (AR) Chief Executive function <input type="checkbox"/> SMF3 (AR) Executive Director function <input type="checkbox"/> SMF4 (AR) Partner function <input type="checkbox"/>	
<i>c</i>	<b>Customer function</b>	CF 30 (AR) Customer function <input type="checkbox"/>	

**3B.03** Effective date of *controlled functions* indicated above

**3B.04** Job title  
Please refer to notes on the requirements for submitting a CV



I have supplied further information  
related to this page in Section 6

YES

NO

**3B.05 Complete this section only if the application is on behalf of more than one firm.**

List all *firms* within the *group* (including the *firm* entered in 2.01) for which the *candidate* requires approval and the requested *controlled function* for that *firm*.

	<b>Firm Reference Number</b>	<b>Name of firm</b>	<b>Controlled function</b>	<b>Job title</b>	<b>Effective date</b>
<b>a</b>					
<b>b</b>					
<b>c</b>					
<b>d</b>					
<b>e</b>					



I have supplied further information related to this page in Section 6

YES

NO

If there has been a change to the detail in this section since your last approval, you must submit a Long Form A as opposed to a Short Form A informing the *FCA* of the revised detail.

If there has been a change to the detail in this section since your last approval, you must submit a Long Form A as opposed to a Short Form A informing the FCA of the revised detail.

**5.1** Has the *firm* undertaken a criminal records check in accordance with the requirements of the FCA?

Please note that a *firm* is required to request the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 (Certificates of Criminal records, etc.) and related subordinated legislation of the UK or any part of the UK before making the application. (SUP 10C.10).<sup>1</sup>

If yes, please enter date the check was undertaken.

Date (dd/mm/yy):

*Note: if date is more than 3 months prior to current date or 3 months prior to date of application submission or the check has not been undertaken, please provide details in Section 6.*

YES  NO

**5.2** Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA?

If no, please provide details why the reference or references has/have not been obtained.

*Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22) "Employer" has an extended meaning for these purposes.*

*References are not required if the candidate has been employed by the same firm or group for 6 years or more.*

YES  NO



I have supplied further information related to this page in Section 6

YES  NO

- 6.01** Please provide full details of:
- a) why the *candidate* is competent and capable to carry out the *controlled function(s)* applied for;
  - b) why the appointment complements the *firm's* business strategy, activity and market in which it operates;
  - c) how the appointment was agreed including details of any discussions at *governing body* level (where applicable);

**6.02** If there is any additional information indicated in previous sections or any other information the *candidate* or the *firm* considers being relevant to this application it must be included here. (Please also provide full details of any issues that could affect the *Fitness and Propriety* of the individual that arose when leaving an employer or if any question has been answered 'yes' in Section 5)

**Question**

**Information**

**6.03** For applications for *senior management functions*, firms must also provide the following supporting documents with this form (please tick):

	<b>Statement of responsibilities</b>
	<b>Candidate's Curriculum Vitae (C.V)</b>
	<b>Role(s) description</b>
	<b>Organisational chart</b>
	<b>A description or copy of the <i>candidate's</i> Skills Gap Analysis.</b>
	<b>A description or copy of the <i>candidate's</i> Induction programme</b>
	<b>A description or copy of the <i>candidate's</i> Learning and Development plan (including the name of the <i>individual</i> responsible for monitoring the <i>candidate's</i> progress against the development points and the time frame for completion)</b>
	<b>A description or documentation setting out how the competency was assessed (demonstrating competence and suitability mapped to the specific role and responsibilities of the role).</b>

**6.04** In addition for applications for *senior management functions*, enhanced scope SMCR firms must also provide (please tick):-

	<b>A copy of the firm's <i>management responsibilities map</i> (as referred to in SYSC 25.1)</b>
	<b>A summary of any handover material (as referred to in SYSC 25.9 and SUP 10C.10)</b>

**Declaration of *Candidate***

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act 2000 – ‘FSMA’). Even if you believe or know that information has been provided to the *FCA* before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the *FCA* will itself identify such information during the assessment of this application.

There will be a delay in processing the application if information is inaccurate or incomplete, and it may call into question the suitability of the *candidate* and/or lead to the *FCA* exercising their powers (including but not limited to taking disciplinary/Enforcement action). You must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the *FCA* is reasonably likely to consider the information material).

The *candidate* confirms that the information provided in this application is accurate and complete to the best of their knowledge and that they have read the notes to this form. The *candidate* will notify the *FCA* immediately if there is a material change to the information provided.

The *candidate* confirms that the attached *statement of responsibilities* accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing. The *candidate* confirms that they have accepted all the responsibilities set out in this *statement of responsibilities*.

The *candidate* agrees that the *FCA* may use the address specified for the *candidate* in this form as the proper address for service in the United Kingdom (as defined in the Financial Services and Markets Act 2000 (Service of Notices) Regulations (SI 2001/1420)) to serve any notices on the *candidate*.

For the purposes of complying with the Data Protection Act 1998, the personal information provided in this form will be used by the *FCA* to discharge their statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation, and will not be disclosed for any other purpose without the permission of the *candidate*.

The *candidate* confirms that they understand the regulatory responsibilities of the proposed role as set out in the rules of conduct in the *FCA*’s *COCON* or *APER*.

The *candidate* is aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

In addition to other regulatory responsibilities, *firms*, and *candidates/approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the Applicant and/or the *candidate*.

For the purposes of complying with data protection legislation, please read the *FCA*’s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

Tick here to confirm you have read and understood this declaration:

7.01 Name of *candidate*

7.02 Signature

Date

## Declaration of Firm

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act – ‘FSMA’). Even if you believe or know that information has been provided to the *FCA* before (whether as part of another application or otherwise) or is in the public domain, you must nonetheless disclose it clearly and fully in this form and as part of this application – you should not assume that the *FCA* will itself identify such information during the assessment of this application. If there is any doubt about the relevance of information, it should be included.

There will be a delay in processing the application if information is inaccurate or incomplete, and it may call into question the suitability of the *candidate* and/or lead to the *FCA* exercising their powers under FSMA (including but not limited to taking disciplinary/Enforcement action). You must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided (insofar as the *FCA* is reasonably likely to consider the information material).

In addition to other regulatory responsibilities, *firms*, and *candidates/approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the Applicant and/or the *candidate*.

The Applicant confirms that the information provided in this application is accurate and complete to the best of its knowledge and that it has read the notes to this form. The Applicant will notify the *FCA* immediately if there is a material change to the information provided. The Applicant is aware that, while advice may be sought from a third party (e.g. legal advice), responsibility for the accuracy of information, as well as the disclosure of relevant information, on the form is ultimately the responsibility of those who sign the application.

Where applicable, the Applicant confirms that it has requested the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 and any related subordinate legislation of the *UK* or any part of the *UK*, and (where available) has given due consideration to that information in determining that *candidate* to be fit and proper.

In making this application the Applicant believes on the basis of due and diligent enquiry and, where applicable, by reference to the criteria in *FIT* in the *FCA handbook* that the *candidate* is a fit and proper *person* to perform the *controlled function(s)* listed in Section 3.

The Applicant also believes, on the basis of due and diligent enquiry, that the *candidate* is competent to fulfil the duties required in the performance of such function(s). Note: For *EEA firms*, this would only apply to those *firms* undertaking any non MiFID business.

The Applicant confirms that it has complied with its obligations under equality and diversity legislation when selecting the *candidate* to perform the function(s) applied for.

The Applicant confirms that it has made the *candidate* aware of their regulatory responsibilities as set out in the rules of conduct in the *FCA*’s *COCON* or *APER*.

The Applicant confirms that the *statement of responsibilities* submitted with this form accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing.

For the purposes of complying with *data protection legislation*, please read the *FCA*’s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

In signing this form on behalf of the Applicant *firm*:

**I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this form.**

I confirm that I have authority to make this application and provide the declarations given by the Applicant, and sign this form, on behalf of the *firm* identified in Section 2.01 and/or each *firm* identified in Section 3.04. I also confirm that a copy of this form, as submitted to the *FCA*, will be sent to each of those firms at the same time as submitting the form to the *FCA*.

7.03 Name of the *firm* submitting the application

7.04 Name of *person* signing on behalf of the *firm*

7.05 Job title

7.06 Signature

Date



Application number  
(for FCA use only)

The FCA has produced notes which will assist both the applicant *firm* and the *candidate* in answering the questions in this form. Please read these notes, which are available on the FCA website at <https://www.handbook.fca.org.uk/handbook/SUP/10C/Annex7D.html>

Both the applicant *firm* and the *candidate* will be treated by the FCA as having taken these notes into consideration when completing this form.

## Form E -

### **Internal transfer of a person performing a *controlled function* for solo-regulated firms (including EEA and third country)**

FCA Handbook Reference: SUP 10C Annex 7D

[Commencement Date]

Name of *candidate*  
(to be completed by applicant *firm*)

Name of *firm*  
(as entered in 2.01)

Financial Conduct Authority  
12 Endeavour Square  
Stratford  
London E20 1JN  
United Kingdom  
Telephone +44 (0) 300 500 0597  
E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)  
Website <http://www.fca.org.uk>  
Registered as a Limited Company in England  
and Wales No 1920623. Registered Office as  
above

## Personal identification details

## Section 1

1.01 Individual Reference Number (IRN)

1.02 Title  
(e.g. Mr, Mrs, Ms)

1.03 Surname

1.04 ALL forenames

1.05 Date of birth

1.06 National Insurance number

1.08 Phone number

1.09 Email address

## Firm identification details

## Section 2

2.01 Name of applicant *firm*

2.02 *Firm* Reference Number (FRN)

2.03 a Who should the *FCA* contact at the applicant *firm*  
in relation to this application?

B Position

C Phone number

D E-mail



I have supplied further information  
related to this page in Section 6

YES

NO

**3.01** List all *senior management functions* which the *approved person* is ceasing to perform. The effective date is the date the *person* will cease to perform the functions.

	FRN	Name of firm	Senior Management Function	Effective date
a				
b				
c				
d				
e				



I have supplied further information related to this page in Section 7

YES

NO

Complete this section if the application is for a *senior management function*. If you are submitting an application for a *controlled function* at an *appointed representative*, then please complete Section 4B.

**4A.01** Nature of the arrangement between the candidate and the applicant.

<i>a</i>	<i>Employee</i>	<input type="checkbox"/>
<hr/>		
<i>b</i>	<i>Group employee</i>	<input type="checkbox"/>
	Name of group	
<hr/>		
<i>c</i>	Contract for services	<input type="checkbox"/>
<hr/>		
<i>d</i>	<i>Partner</i>	<input type="checkbox"/>
<hr/>		
<i>e</i>	Other	<input type="checkbox"/>

Give details

Proposed date of appointment

Length of appointment (if applicable)

**4A.02**

For applications from a single *firm*, please tick the boxes that correspond to the *senior management functions* to be performed.

If the *senior management functions* are to be performed for more than one *firm*, please go to question **4.04**

Function	Description of <i>senior management function</i>	Tick (if applicable)	Effective Date
SMF 1	Chief Executive		
SMF 2	Chief Finance		
SMF 3	Executive Director		
SMF 4	Chief Risk r		
SMF 5	Head of Internal Audit		
SMF 7	Group Entity Senior Manager		
SMF 9	Chair of the governing body		
SMF10	Chair of the Risk Committee		
SMF11	Chair of the Audit Committee		
SMF12	Chair of the Remuneration Committee		
SMF13	Chair of the Nomination Committee		
SMF14	Senior Independent Director		
SMF16	Compliance Oversight		
SMF17	Money Laundering Reporting Officer (MLRO)		
SMF18	Other overall responsibility function		
SMF19	Head of Overseas Branch		
SMF21	EEA Branch Senior Manager		
SMF24	Chief Operations		
SMF27	Partner		
SMF29	Limited scope function (limited scope firms only)		

4A.03 Job title

**4A.04 Insurance distribution**

Will the *candidate* be responsible for Insurance distribution at the *firm*? YES  NO   
(Note: Yes can only be selected if the *individual* is applying for a *governing function*)

**4A.05 Mortgage Credit Directive**

Will the *candidate* be responsible for Mortgage Credit Directive Intermediation at the *firm*? YES  NO

(Note: Yes can only be selected if the *individual* is applying for a *governing function* (other than a *non-executive director function*))



I have supplied further information related to this page in Section 6 YES  NO

**4A.06** Has the *firm* undertaken a criminal records check in accordance with the requirements of the *FCA*?

Please note that a *firm* is required under *FCA* rules, to obtain the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 (Certificates of Criminal records, etc) and related subordinated legislation of the *UK* or any part of the *UK* before making the application (SUP 10C.10).

If yes, please enter date the criminal records check was undertaken

Date (dd/mm/yy):

**Note: if date is more than 3 months prior to current date or 3 months prior to date of application submission or the check has not been undertaken, please provide details why in section 5.**



I have supplied further information related to this page in Section 5 YES  NO

**4A.04** List all *firms* within the *group* (including the *firm* entered in **2.01**) for which the applicant requires approval and the requested *senior management function* for that *firm*.

	<b>Firm Reference Number</b>	<b>Name of firm</b>	<b>Senior Management Function</b>	<b>Job title (mandatory)</b>	<b>Effective date</b>
<b>A</b>					
<b>B</b>					
<b>C</b>					
<b>D</b>					
<b>E</b>					

**4A.05**

Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the *FCA*. If No, please provide details why the reference or references has/have not been obtained.

*Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22). "Employer" has an extended meaning for these purposes.*

YES  NO



I have supplied further information related to this page in Section 6

YES  NO

Complete this section if the application is for a *controlled function* at an *appointed representative (AR)*. If you are submitting an application for a *senior management function* then please complete Section 4A.

For limited permission consumer credit firms that are also appointed representatives, only the customer function is relevant in this section. For these firms, relevant senior management functions apply instead of the governing functions (ie CF1 (AR), CF3 (AR), CF4 (AR) and CF5 (AR)). We do not expect this to apply to many firms.

**4B.01** Nature of the arrangement between the candidate and the applicant.

	<hr/>	
	<hr/>	
<i>a</i>	Appointed representative/tied agent – customer function <input type="checkbox"/>	
	AR firm name and reference number <span style="background-color: #cccccc; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></span>	
<i>b</i>	Appointed representative/tied agent – governing function <input type="checkbox"/>	
	AR firm name and reference number <span style="background-color: #cccccc; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></span>	
<i>c</i>	Other <input type="checkbox"/>	
	Give details <span style="background-color: #cccccc; display: inline-block; width: 150px; height: 1.2em; vertical-align: middle;"></span>	

**4B.02** For applications from a single firm, please tick the boxes that correspond to the *controlled functions* to be performed. If the *controlled functions* are to be performed for more than one firm, please go to question **3B.05**.

<b>a</b>	<b>Significant influence functions</b>	CF 1 (AR) Director function <input type="checkbox"/> CF 3 (AR) Chief executive function <input type="checkbox"/> CF 4 (AR) Partner function <input type="checkbox"/> CF 5 (AR) Director of an unincorporated association function <input type="checkbox"/>	
<b>b</b>	<b>Senior Management Functions</b>	SMF1 (AR) Chief Executive function <input type="checkbox"/> SMF3 (AR) Executive Director function <input type="checkbox"/> SMF4 (AR) Partner function <input type="checkbox"/>	
	(This section is only applicable for limited permission consumer credit firms that are ARs for other businesses)		
<b>c</b>	<b>Customer function</b>	CF 30 (AR) Customer function <input type="checkbox"/>	

**4B.03** Effective date of *controlled functions* indicated above

**4B.04** Job title  
Please refer to notes on the requirements for submitting a CV



**4B.05 Complete this section only if the application is on behalf of more than one firm.**

List all *firms* within the *group* (including the *firm* entered in 2.01) for which the *candidate* requires approval and the requested *controlled function* for that *firm*.

	<b>Firm Reference Number</b>	<b>Name of firm</b>	<b>Controlled function</b>	<b>Job title</b>	<b>Effective date</b>
a					
b					
c					
d					
e					



I have supplied further information related to this page in Section 6

YES

NO

# Supplementary information for Senior Management Functions

## Section 5

5.01 Please provide full details of:

- a) why the *candidate* is competent and capable to carry out the *controlled function(s)* applied for;
- b) why the appointment complements the *firm's* business strategy, activity and market in which it operates;
- c) how the appointment was agreed including details of any discussions at *governing body* level (where applicable);

5.02 If there is any additional information indicated in previous sections or any other information the *candidate* or the *firm* considers being relevant to this application it must be included here.

Question	Information

5.03 *Firms* must also provide the following supporting documents required with this form (please tick)

- Statement of responsibilities**
- Candidate's Curriculum Vitae (C.V)**
- Role(s) description**
- Organisational chart**
- A description or copy of the *candidate's* Skills Gap Analysis.**

	A description or copy of the <i>candidate's</i> Induction programme
	A description or copy of the <i>candidate's</i> Learning and Development plan (including the name of the <i>individual</i> responsible for monitoring the <i>candidate's</i> progress against the development points and the time frame for completion)
	A description or documentation setting out how the competency was assessed (demonstrating competence and suitability mapped to the specific role and responsibilities of the role).

**5.04** In addition, an *enhanced scope SMCR firm* must provide:

	A copy of the <i>firm's management responsibilities map</i> (SYSC 25, where applicable).
	A summary of any handover material (SYSC 25.9 and SUP 10C.10) This requirement does not apply to all <i>firms</i> .

**Declaration of *Candidate***

Knowingly or recklessly giving the *FCA* information which is false or misleading in a material particular may be a criminal offence (section 398 and 400 of the Financial Services and Markets Act 2000 – ‘FSMA’). It should not be assumed that information is known to the *FCA* merely because it is in the public domain or has previously been disclosed to the *FCA* or another *regulatory body*. If there is any doubt about the relevance of information, it should be included.

In addition to other regulatory responsibilities, *firms*, *senior managers* and other *approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the *firm* and/or *individuals*.

The *candidate* confirms that the attached *statement of responsibilities* accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing. The *candidate* confirms that they have accepted all the responsibilities set out in the *statement of responsibilities*.

For the purposes of complying with *data protection legislation*, please read the *FCA*'s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

In signing the form below:

**a) I authorise the *FCA* to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this form. *Candidates* may be required to apply for a criminal records search to be made as to whether any criminal records are held in relation to them and to obtain a certificate (where such certificate can be obtained) and to disclose the result of that search to the *firm* submitting this application.**

**b) I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this form.**

**c) I confirm that I understand the regulatory responsibilities of my proposed role as set out in the rules of conduct in the *FCA*'s *COCON* or *APER*.**

**d) I confirm that the *statement of responsibilities* submitted with this form accurately reflects the aspects of the affairs of the *firm* which it is intended that I will be responsible for managing. I confirm that I have accepted all the responsibilities set out in this *statement of responsibilities*.**

Tick here to confirm you have read and understood this declaration:

**6.01** *Candidate*'s full name

**6.02** Signature

Date

## Declaration of *Firm*

Knowingly or recklessly giving the *FCA* information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000 – 'FSMA'). *SUP* 15.6 of the *FCA Handbook* require a *firm* to take reasonable steps to ensure the accuracy and completeness of information given to the *FCA* and to notify the *FCA* immediately if materially inaccurate information has been provided.

In addition to other regulatory responsibilities, *firms*, *senior managers* and other *approved persons* have a responsibility to disclose to the *FCA* matters of which it would reasonably expect to be notified. Failure to notify the *FCA* of such information may lead to the *FCA* taking disciplinary or other action against the *firm* and/or *individuals*.

It should not be assumed that information is known to the *FCA* merely because it is in the public domain or has previously been disclosed to the *FCA* or another *regulatory body*. If there is any doubt about the relevance of information, it should be included.

In making this application the *firm* believes on the basis of due and diligent enquiry and by reference to the criteria in *FIT* in the *FCA Handbook* that the *candidate* is a fit and proper person to perform the *senior management functions*(s) listed in Section 3. The *firm* also believes, on the basis of due and diligent enquiry, that the *candidate* is competent to fulfil the duties required in the performance of such function(s).

### **IF UNDERTAKING ANY NON MiFID BUSINESS FOR WHICH THE *FIRM* HAS NOT PREVIOUSLY APPLIED FOR AUTHORISATION, PLEASE ALSO COMPLETE THE FOLLOWING**

The *firm* also believes, on the basis of due and diligent enquiry, that the *candidate* is competent to fulfil the duties required of such function(s). YES  NO

If the *firm* confirms that it has had sight of a criminal records certificate prepared within the past 3 months in relation to the *candidate* and has given due consideration to the information contained in that certificate in determining that *candidate* to be fit and proper. Alternatively, where a certificate is not obtained the *firm* has provided an explanation in Section 5.

For the purposes of complying with *data protection legislation*, please read the *FCA*'s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

In signing this form on behalf of the *firm*:

**a) I confirm that the information in this form is accurate and complete to the best of my knowledge and belief and that I have read the notes to this form.**

**b) I confirm that I have authority to make this application and provide the declarations given by the *firm*, and sign this form, on behalf of the *firm* identified in Section 2.01 and/or each *firm* identified in Section 4.04. I also confirm that a copy of this form, as submitted to the *FCA*, will be sent to each of those *firms* at the same time as submitting the form to the *FCA*.**

**c) I confirm the *candidate* has been made aware of the regulatory responsibilities of the proposed role as set out in the rules of conduct in the *FCA*'s *COCON* or *APER*.**

**d) I confirm that that the *statement of responsibilities* submitted with this form accurately reflects the aspects of the affairs of the *firm* which it is intended that the *candidate* will be responsible for managing.**

**6.03** Name of the *firm* submitting the application

**6.04** Name of *person* signing on behalf of the *firm*

**6.05** Job title

**6.06** Signature

Date



Application number or IRN  
(for FCA use only)

## Senior Managers Regime:

### ***Statement of Responsibilities*** for solo-regulated firms

This form applies to solo-regulated *firms*. It does not apply to dual regulated *firms* or *appointed representatives*.

This is a statement provided under section 60(2A) of the Financial Services and Markets Act 2000 (Applications for approval), including a statement revised under section 62A (Changes in responsibilities of senior managers).

For *candidates* for approval, this form **must** be submitted as an attachment to a Form A application or a Form E application.

For significant changes to an existing *statement of responsibilities*, this form **must** be submitted as an attachment to a Form J notification or a Form I application or variation.

*FCA Handbook* Reference: SUP 10C Annex 10D.

[Commencement Date]

Name of *individual*  
(to be completed by *firm*)

Name of *firm*  
(as entered in 2.01)

Financial Conduct Authority  
12 Endeavour Square  
Stratford  
London E20 1JN  
United Kingdom  
Telephone +44 (0) 300 500 0597  
E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)  
Website <http://www.fca.org.uk>  
Registered as a Limited Company in England  
and Wales No 1920623. Registered Office as  
above

## Personal identifications details

## Section 1

1.01 Individual Reference Number (IRN)

1.02 Title  
(e.g. Mr, Mrs, Ms)

1.03 Surname

1.04 ALL forenames

1.05 Date of birth (dd/mm/yyyy)

1.06 National Insurance number

## Firm identification details

## Section 2

2.01 Name of *firm*

2.02 *Firm* Reference Number (FRN)

2.03 a Who should the *FCA* contact at the *firm* in relation to this *statement of responsibilities*?

b Position

c Telephone

e E-mail



I have supplied further information related to this page in Section 4 YES  NO



A *statement of responsibilities* should be drafted to clearly show the responsibilities that the *candidate* or *senior manager* is to perform as part of their *senior management function* and how they fit in with the *firm's* overall governance and management arrangements. If the *firm* is an *enhanced scope SM&CR firm*, the *statement of responsibilities* should also be consistent with the *firm's management responsibilities map*.

A *statement of responsibilities* should be drafted in such a way as to be practical and useable by regulators. The FCA considers that this would be achieved by succinct, clear descriptions of each responsibility which avoid unnecessary detail. *Firms* have the opportunity to provide details of each responsibility allocated to an individual using the free text boxes in this form, however, FCA would not usually expect the description of each responsibility to exceed 300 words.

A *statement of responsibilities* must be a self-contained document. There should be one statement per *senior manager* per *firm*. Where an *individual* performs a *senior management function* on behalf of more than one *firm* within a *group*, one *statement of responsibilities* is required for each *firm*. Any supplementary information may be provided in Section 4 (or if submitting electronically, in a **single** attachment). A *statement of responsibilities* must not cross refer to other documents, attachments or links.

If the FCA considers that the *statement of responsibilities* is not sufficiently clear to be practical and usable, it could be challenged as part of a *candidate's* application for approval, or in ongoing supervision.

Details of the *individual's* responsibilities should be set out in Sections 3.2 to 3.4, as appropriate:

- Section 3.2 covers *prescribed responsibilities* required by regulators to be allocated to one or more *senior managers*. This section is not applicable to *limited scope SMCR firms* or *EEA core SMCR branches*.
- Section 3.3 covers having overall responsibility for each of the business areas, activities, and management functions of the *firm*. This section applies to *enhanced scope SMCR firms* only.
- Section 3.4 covers anything else, not otherwise included, for which a *candidate* or *senior manager* is to be responsible as part of their *FCA senior management function(s)* role. This section applies to all *firms*.

## 3.1 Effective date and relevant Senior Management Functions

### 3.1.1 Please state the effective date of this *statement of responsibilities*:

Please note that where this is a revised *statement of responsibilities*, i.e. since the granting of the application, there has been a significant change in the aspects of the *firm's* affairs which the *individual* is responsible for managing in performing the function (for example, a change in allocation of responsibilities within the *firm*, or the *senior manager* is applying for a new or additional *senior management function*), then this *statement of responsibilities* supersedes any previous versions.

### 3.1.2 List all *senior management functions* which the *candidate* or *senior manager* is to perform and the effective date the *candidate* or *senior manager* commenced or will commence the performance of the functions.

Senior management function	Description of senior management function	Tick SMF applied for or held					Effective Date
		Core firms				Enhanced SMCR firms	
		Limited scope SMCR firms	UK core SMCR firms	EEA core SMCR firms	Third country branches		
SMF 1	Chief Executive	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	

SMF 2	Chief Finance					<input type="checkbox"/>	
SMF 3	Executive Director	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
SMF 4	Chief Risk Officer					<input type="checkbox"/>	
SMF 5	Head of Internal Audit					<input type="checkbox"/>	
SMF 7	Group Entity Senior Manager					<input type="checkbox"/>	
SMF 9	Chair of the Governing Body	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>	
SMF10	Chair of the Risk Committee					<input type="checkbox"/>	
SMF11	Chair of the Audit Committee					<input type="checkbox"/>	
SMF12	Chair of the Remuneration Committee					<input type="checkbox"/>	
SMF13	Chair of the Nomination Committee					<input type="checkbox"/>	
SMF14	Senior Independent Director					<input type="checkbox"/>	
SMF16	Compliance Oversight	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
SMF17	Money Laundering Reporting Officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SMF18	Other overall responsibility function					<input type="checkbox"/>	
SMF19	Head of Overseas Branch				<input type="checkbox"/>		
SMF21	EEA Branch Senior Manager			<input type="checkbox"/>			
SMF24	Chief Operations					<input type="checkbox"/>	
SMF27	Partner	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
SMF29	Limited scope function ( <i>limited scope SMCR firms only</i> )	<input type="checkbox"/>					

This *statement of responsibilities* is considered to automatically include the existing legal and regulatory obligations where they exist for these roles and functions. For example, certain specific responsibilities of a

*director* are set out in company law. Such responsibilities do not need to be recorded in this statement, but any additional responsibilities should be recorded in the sections below.

### **3.2 Prescribed Responsibilities**

This section deals with those *prescribed responsibilities* to be allocated to one or more *senior managers*. The allocation of responsibilities under a *statement of responsibilities* should not reduce or alter the scope of any applicable *prescribed responsibilities*. *Limited scope SMCR firms* and *EEA core SMCR branches* are not required to assign *prescribed responsibilities* and should leave this section blank.

If the responsibilities that the *candidate* or *senior manager* is to carry out as described in the *statement of responsibilities* go beyond those set out in this section, those additional responsibilities should not reduce or alter the scope of the *prescribed requirements* set out in this section (SUP 10C.11)

**3.2.1** Please indicate below which of the responsibilities listed are/will be allocated to the *candidate* or *senior manager* if any, and whether or not they are shared. Different *prescribed responsibilities* apply to different types of *firm* as indicated in the table below.

If the *individual* has not been allocated a *prescribed responsibility*, please go to Section 3.3.

<b>Ref</b>	<b><i>Prescribed Responsibility (Applicable to UK Core SMCR firms)</i></b>	<b><i>Does this prescribed responsibility apply?</i></b>	<b><i>Is this prescribed responsibility shared?</i></b>
a	Responsibility for the <i>firm's</i> performance of its obligations under the <i>senior managers regime</i>	Yes / No	Yes / No
b	Responsibility for the <i>firm's</i> performance of its obligations under the <i>employee certification regime</i>	Yes / No	Yes / No
b-1	Responsibility for the <i>firm's</i> obligations in relation to individual conduct rules for: (a) training; and (b) reporting	Yes / No	Yes / No
d	Overall responsibility for the <i>firm's</i> policies and procedures for countering the risk that the <i>firm</i> might be used to further <i>financial crime</i>	Yes / No	Yes / No
z	Responsibility for the <i>firm's</i> compliance with CASS	Yes / No	Yes / No
za	Responsibility for an AFM's value for money assessments, independent director representation and acting in investors' best interests	Yes / No	Yes / No

<b>Ref</b>	<b><i>Prescribed Responsibility (These should be applied by enhanced scope SMCR firms only, in addition to the prescribed responsibilities for core SMCR firms)</i></b>	<b><i>Does this prescribed responsibility apply?</i></b>	<b><i>Is this prescribed responsibility shared?</i></b>
c	Compliance with the rules relating to the <i>firm's management responsibilities map</i>	Yes / No	Yes / No
j	Responsibility for: (a) safeguarding the independence of; and (b) oversight of the performance of; the internal audit function, in accordance with the internal audit requirements for SMCR <i>firms</i> .	Yes / No	Yes / No
k	Responsibility for: (a) safeguarding the independence of; and (b) oversight of the performance of; the compliance function in accordance with the compliance requirements for SMCR <i>firms</i> .	Yes / No	Yes / No
l	Responsibility for:	Yes / No	Yes / No

Ref	<b>Prescribed Responsibility (These should be applied by enhanced scope SMCR firms only, in addition to the prescribed responsibilities for core SMCR firms)</b>	<b>Does this prescribed responsibility apply?</b>	<b>Is this prescribed responsibility shared?</b>
	(a) safeguarding the independence of; and (b) oversight of the performance of; the risk function, in accordance with the risk control requirements for <i>SMCR firms</i> .		
j-3	Responsibility for taking reasonable steps to ensure that every person involved in the performance of the <i>firm's</i> internal audit function is independent from the persons who perform external audit, including:  (a) supervision and management of the work of outsourced internal auditors; and (b) management of potential conflicts of interest between the provision of external audit and internal audit services.	Yes / No	Yes / No
t	Responsibility for the development and maintenance of the <i>firm's</i> business model by the <i>governing body</i> .	Yes / No	Yes / No
s	Responsibility for: (a) managing the <i>firm's</i> internal stress tests; and (b) ensuring the accuracy and timeliness of information provided to the <i>FCA</i> and other <i>regulatory bodies</i> for the purposes of stress testing.	Yes / No	Yes / No

Ref	<b>Prescribed Responsibility (Applicable to non-EEA branches)</b>	<b>Does this prescribed responsibility apply?</b>	<b>Is this prescribed responsibility shared?</b>
a	Responsibility for the <i>firm's</i> performance of its obligations under the <i>senior managers regime</i>	Yes / No	Yes / No
b	Responsibility for the <i>firm's</i> performance of its obligations under the <i>employee certification regime</i>	Yes / No	Yes / No
b-1	Responsibility for the <i>firm's</i> obligations in relation to individual conduct rules for: (a) training; and (b) reporting	Yes / No	Yes / No
d	Responsibility for the <i>firm's</i> policies and procedures for countering the risk that the <i>firm</i> might be used	Yes / No	Yes / No

Ref	<b>Prescribed Responsibility (Applicable to non-EEA branches)</b>	<b>Does this prescribed responsibility apply?</b>	<b>Is this prescribed responsibility shared?</b>
	to further <i>financial crime</i>		
z	Responsibility for the <i>firm's</i> compliance with CASS	Yes / No	Yes / No
aa	Responsibility for the management of the <i>firm's</i> risk management processes in the <i>UK</i>	Yes / No	Yes / No
ff	Responsibility for the <i>firm's</i> compliance with the <i>UK regulatory system</i> applicable to the <i>firm</i>	Yes / No	Yes / No
ee	Responsibility for the escalation of correspondence from the <i>PRA, FCA</i> and other regulators in respect of the <i>firm</i> to the <i>governing body</i> and/or the <i>management body</i> , or where appropriate, of the <i>parent undertaking</i> or <i>holding company</i> of the <i>firm's group</i> .	Yes / No	Yes / No

**3.2.2** If necessary, please provide additional information about each *prescribed responsibility*, including:

- A breakdown of the different components and tasks which the responsibility encompasses; and
- If applicable, details of any sharing arrangements including, if known, the name(s), IRN(s) and/or job title(s) of the *individual(s)* with whom the *candidate* or *senior manager* is or will be sharing this *prescribed responsibility*. The responsibility should be recorded in the same way in the *statements of responsibilities* for each *individual*.

Additional information must be relevant, succinct and not dilute or undermine the *prescribed responsibility*.

Ref	<b>Prescribed Responsibility</b>	<b>Further Relevant Details</b>


➔ I have supplied further information related to this page in Section 4 YES  NO

### 3.3 Overall Responsibility

This section deals with having overall responsibility for any of the business areas, activities, or management functions of the *firm*. This section only applies to *enhanced scope SMCR firms*. If you are not an *enhanced scope SMCR firm*, you should leave this section blank.

#### 3.3.1 Overall Responsibility

By overall responsibility we mean the ultimate responsibility (under the *governing body*) for managing or supervising that function, and primary and direct responsibility for briefing and reporting to the *governing body* about that function and putting matters for decision about that function to the *governing body* of the *firm*.

(SYSC24)

If the *individual* has overall responsibility for any or part of the business areas, activities, or management functions of a *firm*, please provide details of each in the table below.

Where responsibilities are shared (for example, a responsibility may be shared as part of a job share or where departing and incoming *senior managers* work together temporarily as part of a handover), please provide details of any sharing arrangements including, if known, the name(s), IRN(s) and/or job title(s) of the *individual(s)* you are sharing this responsibility with. The responsibility should be recorded in the same way in the *statement of responsibilities* for each *individual*.

If the *individual* does not have overall responsibility for a business area, activity or management function of the *firm*, please go to Section 3.4 below.

A *firm* may wish to refer to SYSC 25 Annex 1G (replicated in Annex A of this *statement of responsibilities*) to help it make sure it has not failed to allocate overall responsibility for a particular activity of the *firm*. Please note that the *FCA* does not require *firms* to organise themselves by the functions in SYSC 4 Annex 1G, and that the Annex is not comprehensive. It is important that a *firm* does not fail to allocate overall responsibility for business areas, activities and management functions, in line with SYSC 4.



Please provide a title for this overall responsibility	Please provide further details of this overall responsibility.	Is this overall responsibility shared? If 'Yes' please provide, the name(s), IRN(s) and/or job title(s) of the <i>individual(s)</i> you are sharing this responsibility with (where known)
		Yes / No
		Yes / No
		Yes / No
		Yes / No



I have supplied further information related to this page in Section 4

YES

NO

**3.4 Other Responsibilities**

**3.4.1** Please set out below any additional responsibility not otherwise recorded in this statement, for which a *candidate* or *senior manager* is to be responsible as part of their *FCA senior management function(s)*. For *core SMCR firms* and *limited scope SMCR firms*, these may include responsibilities for managing aspects of the business. For *enhanced scope SMCR firms*, they could be responsibilities outside the normal course of business such as those linked to high profile projects or initiatives which are not documented as Overall Responsibilities. This section applies to all *firms*.

Where responsibilities are shared (for example, a responsibility may be shared as part of a job share or where departing and incoming *senior managers* work together temporarily as part of a handover), please provide details of any sharing arrangements including, if known, the name(s), IRN(s) and/or job title(s) of the *individual(s)* the *candidate* or *senior manager* will be sharing this responsibility with. The responsibility should be recorded in the same way in the *statements of responsibilities* for each *individual*.

Please provide a title for this other responsibility	Please provide further details of this other responsibility	Is this other responsibility shared? If 'Yes' please provide ,the name(s), IRN(s) and/or job title(s) of the <i>individual(s)</i> you are sharing this responsibility with (where known)
		Yes / No
		Yes / No
		Yes / No
		Yes / No

→ I have supplied further information related to this page in Section 4 YES  NO

4.1 Is there any other information the *individual* or the *firm* considers to be relevant?

YES  NO

If yes, please provide details below or on a separate sheet of paper and clearly identify the section and question to which the additional information relates.

Question	Information

4.2 How many additional sheets are being submitted?

ANNEX A

SYSC 25 The main business activities and functions of a *SMCR firm*.  
Annex 1G

Business areas and management functions	Explanation
(1) Payment services	<p>This means:</p> <p>(1) <i>payment services</i>;</p> <p>(2) issuing and administering other means of payment (for example, cheques and bankers' drafts);</p> <p>(3) issuing <i>electronic money</i>; and</p> <p>(4) current accounts.</p>
(2) Settlement	<p>This means clearing and settlement of any transactions described in rows (3) and (6) to (9) of this annex in relation to the assets covered by (9).</p> <p>It also includes clearing and settlement of any transactions described in row (10).</p>
(3) Investment management	<p>This has the same meaning as <i>managing investments</i> with the following adjustments:</p> <p>(a) it covers all types of assets; and</p> <p>(b) the exclusions in the <i>Regulated Activities Order</i> do not apply.</p> <p>It also covers fund management.</p>
(4) Financial or investment advice	<p>This includes <i>advising on investments</i>.</p>
(5) Mortgage advice	<p>This has the same meaning as <i>advising on regulated mortgage contracts</i> but is expanded to cover land anywhere in the world and to cover security of any kind over land.</p>
(6) Corporate investments	<p>This means acquiring, holding, managing and disposing a <i>firm's</i> investments made for its own account.</p>
(7) Wholesale sales	<p>This means the <i>selling</i> of any <i>investment</i> to a <i>person</i> other than a <i>retail customer</i>.</p> <p>It does not include the activities in (1).</p>
(8) Retail sales	<p>This means the <i>selling</i> of any <i>investment</i> to a <i>retail customer</i>.</p> <p>It includes savings accounts. It does not include the activities in (1).</p>
(9) Trading for clients	<p>This means <i>dealing in investments as agent</i> and <i>execution of orders on behalf of clients</i> but the list of products includes money market instruments and foreign exchange.</p>

<b>Business areas and management functions</b>	<b>Explanation</b>
(10) Market making	This has the same meaning as it does in <i>MIFID</i> (see the definition of market maker in article 4.1(8)).
(11) <i>Investment research</i>	
(12) Origination/syndication and underwriting	<p>Origination and syndication include:</p> <p>(1) entering into or acquiring (directly or indirectly) any commitment or <i>investment</i> with a view to transferring some or all of it to others, or with a view to others investing in the same transaction;</p> <p>(2) sub-participation; and</p> <p>(3) any transaction described in the <i>Glossary</i> definition of <i>originator</i>.</p> <p>Underwriting includes underwriting that is not on a firm commitment basis.</p> <p>A commitment or <i>investment</i> includes an economic interest in some or all of it.</p> <p>This activity also includes the provision of services relating to such transactions.</p>
(13) Retail lending decisions	<p>Deciding whether, and on what terms, to lend to <i>retail customers</i>.</p> <p>Lending includes granting credit, leasing and hire (including finance leasing).</p>
(14) Wholesale lending decisions	<p>Deciding whether, and on what terms, to lend to <i>persons</i> who are not <i>retail customers</i>.</p> <p>Lending includes granting credit, leasing and hire (including finance leasing).</p>
(15) Design and manufacturing of products intended for wholesale customers	Wholesale customers mean <i>persons</i> who are not <i>retail customers</i>
(16) Design and manufacture of products intended for <i>retail customers</i>	
(17) Production and distribution of marketing materials and communications	This includes <i>financial promotions</i>
(18) Customer service	This means dealing with <i>clients</i> after the point of sale, including queries and fulfilment of <i>client</i> requests
(19) Customer complaints handling	<p>This includes the <i>firm's</i> compliance with <i>DISP</i>.</p> <p>It also includes:</p> <p>(1) any similar procedures relating to activities that do not come under the jurisdiction of the <i>Financial Ombudsman Service</i>;</p>

Business areas and management functions	Explanation
	(2) activities that take place outside the <i>UK</i> ; and  (3) activities that are not subject to any ombudsman service.
(20) Collection and recovering amounts owed to a <i>firm</i> by its <i>customers</i>  Dealing with <i>customers</i> in arrears	“Customer” means any <i>person</i> falling into any of the definitions of <i>client</i> in the <i>Glossary</i> so far as they apply to the <i>FCA’s Handbook</i> . The definition is extended to cover all services provided by the <i>firm</i> and not just those that are provided in the course of carrying on a <i>regulated activity</i> or an <i>ancillary service</i> .
(21) Middle office	This means risk management and controls in relation to, and accounting for, transactions in <i>securities</i> or <i>derivatives</i>
(22) The <i>firm’s</i> information technology	
(23) Business continuity planning	This means the functions described in SYSC 4.1.6R and SYSC 4.1.7R
(24) Human resources	This includes recruitment, training and competence and performance monitoring
(25) Incentive schemes for the <i>firm’s</i> staff	This is not limited to schemes based on sales.
(26) <i>Providing information in relation to a specified benchmark</i>	
(27) <i>Administering a specified benchmark</i>	
Note (1): The purpose of this Annex is explained in SYSC 25.7 (Guidance about SYSC 25 Annex 1 G) and SYSC 26.11.2G.	
<p>Note (2): A <i>firm</i> does not have to use the split of activities in this Annex for the purposes in Note (1). If a <i>firm</i> does decide to use it, it may adapt it to suit its management arrangements better.</p> <p>For example, a <i>firm</i> may find the split of activities into <i>retail</i> and wholesale activities unsuitable. If so, the <i>firm</i> might:</p> <p>(a) treat <i>retail</i> and wholesale activities together; or</p> <p>(b) use its own definition of retail and wholesale activities.</p>	

Notification number  
(for FCA use only)

## Form O – Notification of change to firm classification under the Senior Managers & Certification Regime

*FCA Handbook* Reference: SUP TP 12

Terms defined in the *FCA Handbook* are italicised and should be construed accordingly.

This form can only be used by solo-regulated SMCR *firms*. It is not relevant to dual regulated SMCR *firms*, *appointed representatives* or SMCR *firms* that are defined as an *enhanced scope SMCR firm* because they meet the qualification criteria in SYSC 23 Annex 1.

*Limited scope SMCR firms* and *core SMCR firms* can use this form to notify the FCA that they agree to be subject to the rules for *enhanced scope SMCR firms*, set out in SYSC 23 Annex 1. *Limited scope SMCR firms* can also use this form to notify the FCA that they agree to be subject to the rules for *core SMCR firms*, set out in SYSC 23 Annex 1.

The opt-up will take effect three months from the date of this notification. If a *firm* submits this form to opt-up, that *firm* will be subject to the rules of the new SMCR classification three calendar months from the date they submit the notification.

To withdraw a notification, *firms* must write to us before the opt-up takes effect. Once the opt-up has taken effect, *firms* can use this form to revert to the SMCR classification defined in SYSC 23 Annex 1. This will be effective one year from the date of notification. *Firms* that are *enhanced scope SMCR firms* or *core SMCR firms* because they meet the qualification criteria in SYSC 23 Annex 1 cannot opt-down.

*Firms* opting-up should ensure that they understand and are in a position to comply with the relevant rules, set out in the FCA's Senior management arrangements, Systems and Controls (SYSC), Supervision (SUP), Code of Conduct (COCON) sourcebooks. The decision should be made at the appropriate levels and approved at *governing body* level. As a result of opting-up, *firms* will be subject to rules relating to additional *Senior Management Functions* and *Prescribed Responsibilities*. *Firms* opting-up to *enhanced scope SMCR firm* classification will also be subject to requirements on Responsibilities Maps, Handover Procedures and Overall Responsibilities.

[Commencement Date]

Name of *firm*

*Firm* Reference Number (FRN)



Financial Conduct Authority

12 Endeavour Square

Stratford

London E20 1JN

United Kingdom

Telephone +44 (0) 300 500 0597

E-mail [firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk)

Website <http://www.fca.org.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above



## Contact Details

## Section 1

### 1.1 Contact for this notification (at the *notifying firm*)

Title	
First name	
Surname	
Job title	
Business address	
Postcode	
Phone number	
Email address	

**Notification** **Section 2**

**2.01 Changes to the SMCR classification of the firm**

Please indicate the type of notification you are making.

The opt-up will take effect three months from the date of this notification. *Firms* will not be able to revert to their previous *SMCR* classification (as defined in SYSC 23 Annex 1) for at least one year.

If you are revoking a previous opt-up, this will take effect one year from the date of this notification.

Notification type	Firm response
Core SMCR firm agreeing to be subject to the rules for enhanced scope SMCR firms	<input type="checkbox"/>
Limited scope SMCR firm agreeing to be subject to the rules for core SMCR firms	<input type="checkbox"/>
Limited scope SMCR firm agreeing to be subject to the rules for enhanced scope SMCR firms	<input type="checkbox"/>
Firm has previously opted-up and intends to revert to core SMCR firm classification, defined in SYSC 23 Annex 1, one year from the date of this notification	<input type="checkbox"/>
Firm has previously opted-up and intends to revert to limited scope SMCR firm classification, defined in SYSC 23 Annex 1, one year from the date of this notification	<input type="checkbox"/>

**2.02 Supporting documents**

Please tick to confirm that you are submitting the supporting documents listed in the table below with this notification. These documents must be submitted at the same time as this notification.

If you are revoking a previous opt-up, you are not required to submit any supporting documents.

Supporting documents	Opting-up to enhanced scope SMCR firm classification	Limited scope SMCR firm opting-up to core SMCR firm classification
Form A and E applications, as required, for new or amended senior management functions	<input type="checkbox"/>	<input type="checkbox"/>
Form J applications for senior management functions that have already been approved, revised to reflect the impact of the opt-up	<input type="checkbox"/>	<input type="checkbox"/>

## Declarations and signatures

## Section 3

In this declaration, the authorised *firm* making the notification is referred to as the “*firm*”.

The person signing on behalf of the *firm* confirms that:

- they have read this declaration in full;
- they have the authority of the *firm*'s governing body to make this notification;
- the *firm*'s governing body understands their regulatory responsibilities following the opt-up, as set out in the *FCA*'s Senior management arrangements, Systems and Controls (*SYSC*), Supervision (*SUP*), Code of Conduct (*COCOM*) sourcebooks;
- the *firm*'s governing body understands that, once the opt-up takes effect, the *notifying firm* will not be able to revert to its previous SMCR classification (as defined in *SYSC* 23 Annex 1) for at least one year.

It is a criminal offence, knowingly or recklessly, to give the *FCA* information that is materially false, misleading or deceptive (see sections 398 and 400 of the Financial Services and Markets Act 2000). The notifying *firm* must notify the *FCA* immediately if there is a change to the information in this form and/or if inaccurate information has been provided.

For the purposes of complying with *data protection legislation*, please read the *FCA*'s privacy notice at <https://www.fca.org.uk/data-protection>. This notice will tell you what to expect when the *FCA* collects personal information, including how and why we use your personal information and who to contact if you have any queries or wish to exercise your rights.

Name of the *authorised firm*

Name of *person* signing on behalf of the *authorised firm*

Position

Signature

Date

