

Chapter 10C

FCA senior managers regime
for approved persons in
SMCR firms



10C.1 Application

General

- 10C.1.1 **R** This chapter applies to every *SMCR firm*.
- 10C.1.2 **G** This chapter is also relevant to *FCA-approved SMF managers* of an *SMCR firm*.
- 10C.1.2A **G** ■ SUP 10C Annex 1 (What functions apply to what type of firm) sets out:
 - (1) how this chapter applies to different types of *SMCR firm*; and
 - (2) the *SMCR firms* to which no *controlled functions* in this chapter apply.

Overseas firms: UK services

- 10C.1.3 **R** This chapter does not apply to an *overseas SMCR firm* other than in relation to an establishment maintained by it or its *appointed representative* in the *United Kingdom*.

EEA firms: general application

- 10C.1.4 **R** This chapter does not apply to an *SMCR firm* 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 to an authority in a country or territory outside the *United Kingdom* as contemplated by section 59(8) of the *Act*. This *rule* has effect to the extent that, and for as long as, section 59(8) of the *Act* remains in effect under the standstill direction (as it relates to that section) as defined in the direction made by the *FCA* under Part 7 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 that came into force on *IP completion day* and is titled "Main FCA Transitional Directions".
- 10C.1.5 **G** [deleted]

Overseas firms: general

- 10C.1.5A **G** (1) Generally, where an overseas manager of an *overseas SMCR firm* has responsibilities in relation to its *branch* in the *United Kingdom* that are strategic only, they will not need to be an *FCA-approved SMF manager*.

- (2) However, where an overseas manager is responsible for implementing that strategy for its *branch* in the *United Kingdom*, and has not delegated that responsibility to an *SMF manager* in the *United Kingdom*, they will potentially be performing an *FCA controlled function* if the detailed conditions in this chapter defining the relevant *FCA controlled function* are met.

UK firm with overseas branches or providing services on a cross-border basis

10C.1.6 **G** There are no territorial limitations to **■ SUP 10C** for:

- (1) overseas branches of *UK firms*; or
- (1) *UK firms* providing services into or out of the *United Kingdom* on a cross-border basis.

Appointed representatives

10C.1.7 **R** This chapter does not deal with an *approved person* who is approved under **■ SUP 10A** (FCA Approved Persons in Appointed Representatives).

- 10C.1.8 **G**
- (1) **■ SUP 10A** (FCA Approved Persons in Appointed Representatives) deals with the *approved persons* regime for *appointed representatives* of *SMCR firms*.
- (2) In general this chapter does not apply to *appointed representatives* of *SMCR firms*. **■ SUP 10A** applies instead.
- (2) In theory, a *person* employed by an *appointed representative* of an *SMCR firm* could come within one of the *controlled functions* in this chapter. If so, that *person* will be performing a *senior management function* and this chapter would apply. However, the *FCA* thinks that such a situation should rarely arise unless the *person* is seconded to the *firm*.
- If a *person* is an *approved person* under this chapter and under **■ SUP 10A** for the same *firm*, this chapter applies to *FCA-designated senior management functions* under this chapter and **■ SUP 10A** applies to *controlled functions* under **■ SUP 10A**. It is unlikely that such a scenario would normally arise in practice.
- (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*.

Insolvency practitioners

10C.1.9 **R** This chapter does not apply to a function performed by a *person* acting as:

- (1) an insolvency practitioner within the meaning of section 388 of the *Insolvency Act 1986*;

a nominee in relation to a voluntary arrangement under Parts I (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency Act 1986;

(3) an insolvency practitioner within the meaning of article 3 of the Insolvency (Northern Ireland) Order 1989; or

(4) a nominee in relation to a voluntary arrangement under Parts II (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency (Northern Ireland) Order 1989.

Swiss general insurers

10C.1.10 **R**

For *Swiss general insurers*, references in this chapter to parts of the *PRA Rulebook* for 'Solvency II firms' are to be read as references to the corresponding parts of the *PRA Rulebook* applying to *large non-directive insurers*.

10C.1.11 **G**

Swiss general insurers are in the *large non-directive insurers* sector of the *PRA Rulebook* and the *PRA* applies to them, in relation to their *controlled functions*, provisions equivalent to those applying to third country branches in the *Solvency II firms* sector of the *PRA Rulebook*. The *FCA* includes them as third country undertakings of *Solvency II firms* and so they must follow the requirements for *Solvency II firms* set out in this chapter.

Insurance and mortgage credit mediation

10C.1.12 **G**

See **MIPRU 2.2** (Allocation of the responsibility for insurance distribution activity or MCD credit intermediation activity) for how the *FCA's* senior managers regime for *SMCR firms* is adjusted for a *firm* carrying on *insurance distribution activity* or *MCD credit intermediation activity*.