

## Chapter 10C

FCA senior managers regime  
for approved persons in  
SMCR firms

## 10C.8A EEA branch senior manager function (SMF21)

10C.8A.1 **R** This section applies to an *EEA SMCR firm*.

10C.8A.2 **R** (1) A *person* performs the *EEA branch senior manager function* in relation to the *branch* in the *United Kingdom* of an *EEA SMCR firm* if that *person* has significant responsibility for one or more significant business units of the *branch* that carry on any of the activities listed in (2).

(2) The activities listed in this paragraph are:

- (a) *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*;
- (b) processing confirmations, payments, settlements, insurance claims, client money and similar matters, in so far as this relates to *designated investment business*;
- (c) the activity of *accepting deposits from banking customers* and activities substantially connected to that activity to the extent that it does not fall within (a) or (b), above; and
- (d) activities that are subject to CASS.

(3) In considering whether a *person* performs the functions in (2), only activities carried on from the *branch* are relevant.

(4) Paragraph (2)(d) only applies in relation to the *regulated activities* of a *firm* that are not passported activities as defined in (5) and (6).

For the purposes of this *rule*, “passport activities” of an *EEA PTV firm* means *regulated activities* that meet the following conditions:

they are included in the *permission* of the *EEA SMCR firm* under the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018; and

(b) the *firm* was entitled to carry them on in the *United Kingdom* immediately before *IP completion day* by virtue of section 31(1)(b) or (c) of the *Act* as it was in force immediately before *IP completion day*.

(6) For the purposes of this *rule*, “passport activities” of an *EEA SMCR firm* also mean *regulated activities* that were subject to an EEA right applicable to the category of *firm* into which the *EEA SMCR firm* falls and which the *firm* is entitled to carry on in its Home State. For these

purposes EEA right has the meaning that it did in Schedule 3 of the Act as it was in force immediately before *IP completion day* and Home State has the meaning that it did in the *Glossary* as it was in force immediately before *IP completion day*.

**10C.8A.3** G

- (1) The definition of the *EEA branch senior manager function (SMF21)* is similar to that of the significant management *FCA certification function* under ■ SYSC 27.8.4R. However, only the former is an *FCA-designated senior management function*.
- (2) The main differences are:
  - (a) ■ SUP 10C.8A.2R(2) is not included in the significant management *FCA certification function*; and
  - (b) the overriding requirements in ■ SUP 10C.3 (General material about the definition of controlled functions) do not apply to the significant management *FCA certification function*.

**10C.8A.4** G

A person performing the *EEA branch senior manager function* could, for example, be:

- (1) the head of a significant business unit carrying on the activities in ■ SUP 10C.8A.2R(2); or
- (2) a member of a committee (that is, a person who, together with others, has authority to commit the *branch*) making decisions about those activities.

**EEA branch senior manager function (SMF21): Meaning of “significance”**

**10C.8A.5** G

When considering whether a business unit is significant for the purposes of ■ SUP 10C.8A.2R, 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 that unit;
- (2) its use or commitment of the *firm’s* capital;
- (3) its contribution to the profit and loss account;
- (4) the number of *employees* or *approved persons* working in the business unit;
- (5) the number of customers; and
- (6) any other factor which makes the unit significant to the conduct of the *branch’s* affairs.