

Senior arrangements, Systems and Controls

Chapter 10

Conflicts of interest

10.2 Chinese walls

Application

- 10.2.1 **R** This section applies to any *firm*.

Control of information

- 10.2.2 **R**
- (1) When a *firm* establishes and maintains a *Chinese wall* (that is, an arrangement that requires information held by a *person* in the course of carrying on one part of the business to be withheld from, or not to be used for, *persons* with or for whom it acts in the course of carrying on another part of its business) it may:
- (a) withhold or not use the information held; and
 - (b) for that purpose, permit *persons* employed in the first part of its business to withhold the information held from those employed in that other part of the business;
- but only to the extent that the business of one of those parts involves the carrying on of *regulated activities*, *ancillary activities* or, in the case of *MIFID business*, the provision of *ancillary services*.
- (2) Information may also be withheld or not used by a *firm* when this is required by an established arrangement maintained between different parts of the business (of any kind) in the same *group*. This provision does not affect any requirement to transmit or use information that may arise apart from the *rules* in *COBS*.
- (3) For the purpose of this *rule*, "maintains" includes taking reasonable steps to ensure that the arrangements remain effective and are adequately monitored, and must be interpreted accordingly.
- (4) [deleted]

Effect of rules

- 10.2.3 **G** ■ SYSC 10.2.2 R is made under section 137P of the *Act* (Control of information rules). It has the following effect:
- (1) acting in conformity with ■ SYSC 10.2.2 R(1) provides a defence against proceedings brought under sections 89(2), 90(1) and 91(1) of the Financial Services Act 2012 (Misleading statements, Misleading impressions and Misleading statements etc. in relation to benchmarks) - see sections 89(3)(b), 90(9)(c) and 91(3)(b); and
 - (2) [deleted]

(3) acting in conformity with ■ SYSC 10.2.2 R (1) provides a defence for a firm against FCA enforcement action, or an action for damages under section 138D of the Act, based on a breach of a relevant requirement to disclose or use this information.

Attribution of knowledge

10.2.4 **R** When any of the rules of COBS or CASS apply to a firm that acts with knowledge, the firm will not be taken to act with knowledge for the purposes of that rule if none of the relevant individuals involved on behalf of the firm acts with that knowledge as a result of arrangements established under ■ SYSC 10.2.2 R.

10.2.5 **G** When a firm manages a conflict of interest using the arrangements in ■ SYSC 10.2.2 R which take the form of a Chinese wall, individuals on the other side of the wall will not be regarded as being in possession of knowledge denied to them as a result of the Chinese wall.