

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

SYSC TP 8

Bank of England and Financial Services Act 2016: Application to claims management companies

8.1		Application, purpose and definitions
8.1.1	R	Subject to SYSC TP 8.1.2R, SYSC TP 8 applies to a <i>firm</i> if it met the following conditions on the general solo firms' commencement date : (1) the only <i>regulated activities</i> in its <i>permission</i> were <i>regulated claims management activities</i> ; (2) it still had a <i>claims management temporary permission</i> ; and (3) it would have been an <i>SMCR firm</i> but for SYSC TP 8.2.1R.
8.1.2	R	SYSC TP 8.1.1R does not apply to SYSC TP 8.6.1R. Instead, SYSC TP 8.6.1R sets out the <i>firms</i> to which it applies.
8.1.3	G	SYSC TP 8: (1) deals with the application of certain aspects of the senior managers and certification regime to claims management <i>firms</i> brought into regulation under the <i>Act</i> by the <i>Claims Management Order</i> in April 2019; (2) explains how the transitional provisions in SYSC TP 7 (Bank of England and Financial Services Act 2016: Certification and regulatory references) are amended for certain claims management <i>firms</i> ; (3) in particular, describes a transition period (the individual transitional period) that applies for the purposes of the certification regime in place of the one described in SYSC TP 7; and (4) has certain other transitional provisions relating to the application of the senior managers and certification regime to claims management <i>firms</i> .
8.1.4	R	The terms in the first column of the table in SYSC TP 8.1.5R, where they appear in bold in SYSC TP 8, have the meaning in the corresponding row of column 2 for the purposes of SYSC TP 8.
8.1.5	R	Table: glossary of bespoke terms used in SYSC TP 8

Part One: General

Defined term	Meaning
general solo firms' commencement date	9 December 2019
individual transitional period	the period of fifteen <i>months</i> and twenty two <i>days</i> referred to in regulation 3(2) of the solo-regulated firms' commencement SI . If a <i>firm's permission</i> is varied to include <i>regulated activities</i> in addition to <i>regulated claims management activities</i> , it means the shorter period (if any) provided for by regulations 3(2) and 3(3) of the solo-regulated firms' commencement SI .

		Part One: General
solo-regulated firms' commencement SI		The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2019 (SI 2019/1136) as amended by The Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) (Amendment) Regulations 2020 (SI 2020/929)
8.2		Exclusion from the SMCR
8.2.1	R	<p>A <i>firm</i> is not an <i>SMCR firm</i> (and is included in Part Three of SYSC 23 Annex 1 (Definition of exempt firm)) for as long as</p> <ol style="list-style-type: none"> (1) the only <i>regulated activities</i> in its <i>permission</i> are <i>regulated claims management activities</i>; and (2) it only has a <i>claims management temporary permission</i>.
8.3		Transitional period for certification for claims management firms
8.3.1	G	The effect of the solo-regulated firms' commencement SI is that the obligation in section 63E(1) of the <i>Act</i> , for an <i>SMCR firm</i> to take reasonable care to ensure that no <i>employee</i> of the <i>firm</i> performs an <i>FCA certification function</i> unless the <i>firm</i> has issued the <i>employee</i> with a valid certificate, does not apply during its individual transitional period .
8.3.2	G	<ol style="list-style-type: none"> (1) A <i>firm's individual transitional period</i> is the period that: <ol style="list-style-type: none"> (a) begins on (and includes) the date on which the <i>firm's claims management temporary permission</i> comes to an end under the <i>Claims Management Order</i> and the <i>firm's</i> full authorisation for <i>regulated claims management activities</i> comes into effect; and (b) ends on (and excludes) the day falling fifteen <i>months</i> and twenty two <i>days</i> later. (2) If other activities are included in a <i>firm's permission</i> part of the way through the period in (1), its individual transitional period ends at once. (3) If other activities are included in a <i>firm's permission</i> before it receives full authorisation for its <i>regulated claims management activities</i>, the transitional arrangements described in SYSC TP 8 do not apply and the <i>firm</i> will have no individual transitional period. However, the transitional arrangements in SYSC TP 7 (Bank of England and Financial Services Act 2016: Certification and regulatory references) will still apply if it is authorised before 31 March 2021.
8.3.3	R	During a <i>firm's individual transitional period</i> the definition of " <i>certification employee</i> " is amended to mean an employee (as defined in section 63E of the <i>Act</i>) of the <i>firm</i> who performs a <i>certification function</i> under an arrangement entered into by the <i>firm</i> in relation to the carrying on by the <i>firm</i> of a <i>regulated activity</i> , even though the obligation of the <i>SMCR firm</i> to issue a certificate under section 63F of the <i>Act</i> does not yet apply to the <i>firm</i> .
8.4		Application of SYSC TP 7
8.4.1	R	SYSC TP 7 (Bank of England and Financial Services Act 2016: Certification and regulatory references) applies to a <i>firm</i> with the adjustments set out in this section.
8.4.2	R	A reference in SYSC TP 7 to the " <i>certification transitional period</i> " is a reference to a <i>firm's individual transitional period</i> .
8.4.3	R	<ol style="list-style-type: none"> (1) A reference in SYSC TP 7 to the "<i>general commencement date</i>" is a reference to the start of a <i>firm's individual transitional period</i>, except in the following provisions: <ol style="list-style-type: none"> (a) SYSC TP 7.4.6R (Giving references); and (b) SYSC TP 7.4.7G (Form of references). (2) The definition of "<i>general commencement date</i>" is unchanged in the provisions listed in (1)(a) and (b).

8.4		Application of SYSC TP 7
8.4.4	G	SYSC TP 8.3.1G applies in place of SYSC TP 7.2.1G (Certification: The certification transitional period).
8.4.5	G	SYSC TP 7.5 (Transitional provisions about benchmarks and the certification regime) is not relevant.
8.4.6	G	SYSC TP 7.7 (Qualification conditions for FCA-authorised firms) is not relevant as it covers <i>firms</i> that are <i>SMCR firms</i> on the general solo firms' commencement date .
8.5		Additional material about regulatory references
8.5.1	R	The provisions of SYSC 22 (Regulatory references), except those listed in SYSC 22.8.4R, apply to a <i>firm</i> excluded from being an <i>SMCR firm</i> by SYSC TP 8.2.1R as they apply to an <i>SMCR firm</i> .

