

**APPROVED PERSONS REGIME (SIMPLIFICATION AND MIFID) INSTRUMENT  
2007**

**Powers exercised**

- A. The Financial Services 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 59 (Approval of particular arrangements);
  - (2) section 64 (Conduct: statements and codes);
  - (3) section 138 (General rule-making power);
  - (4) section 149 (Evidential provisions);
  - (4) section 156 (General supplementary powers); and
  - (6) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force as follows:
- (1) the provisions relating to the deletion of the sole trader function in MIPRU 2.2.3G(3), SUP 10.4.5R, SUP 10.6.1AG and SUP 10.6.30R to SUP 10.6.32G, SUP 12.2.14G(2) and SUPTP 8D in Annex G and the deletion of sole trader function from the Glossary in Annex A come into force on 1 February 2007;
  - (2) the remainder of the instrument comes into force on 1 November 2007.

**Amendments to the Handbook**

- D. The modules of the FSA’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).

(1)	(2)
Glossary	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Statements of Principle and Code of Conduct for Approved Persons (APER)	Annex C
The Fit and Proper test for Approved Persons sourcebook (FIT)	Annex D
Prudential sourcebook for Insurers (INSPRU)	Annex E
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex F
Supervision manual (SUP)	Annex G
Credit Unions sourcebook (CRED)	Annex H

**Citation**

- E. This instrument may be cited as the Approved Persons Regime (Simplification and MiFID) Instrument 2007.

By order of the Board  
25 January 2007

## Annex A

### Amendments to the Glossary

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

<i>finance function</i>	<del>controlled function CF13 in the table of controlled functions, described more fully in SUP 10.8.1R.</del>
<i>governing function</i>	any of the <i>controlled functions</i> 1 to <u>76</u> in the <i>table of controlled functions</i> .
<i>internal audit function</i>	<del>controlled function CF15 in the table of controlled functions, described more fully in SUP 10.8.6R.</del>
<u><i>Lloyd's actuary function</i></u>	<u><i>controlled function CF12B in the table of controlled functions, described more fully in SUP 10.7.22R.</i></u>
<i>risk assessment function</i>	<del>controlled function CF14 in the table of controlled functions, described more fully in SUP 10.8.3R.</del>
<i>significant influence function</i>	any of the <i>controlled functions</i> 1 to <del>20</del> <u>12B</u> , and <u>28 and 29</u> in the <i>table of controlled functions</i> .
<i>significant management (designated investment business) function</i>	<del>controlled function CF16 in the table of controlled functions, described more fully in SUP 10.9.10R.</del>
<i>significant management (financial resources) function</i>	<del>controlled function CF19 in the table of controlled functions, described more fully in SUP 10.9.16R.</del>
<i>significant management (insurance underwriting) function</i>	<del>controlled function CF18 in the table of controlled functions, described more fully in SUP 10.9.14R.</del>
<i>significant management (other business)</i>	<del>controlled function CF17 in the table of controlled functions, described more fully in SUP 10.9.12R.</del>

*operations)  
function*

*significant  
management  
(settlements)  
function*

*~~controlled function CF20 in the table of controlled functions, described more fully in SUP 10.9.18R.~~*

*significant  
management  
function*

*~~any of the controlled functions 16 to 20~~ CF29 in the table of controlled functions, described more fully in SUP 10.9.10R.*

*sole trader  
function*

*~~controlled function CF7 in the table of controlled functions, described more fully in SUP 10.6.30R.~~*

*systems and  
controls  
function*

*~~any of controlled functions 13 to 15~~ CF28 in the table of controlled functions, described more fully in SUP 10.8.1R.*

## 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.

- 3.2.10 G (1) ...
- (3) The term 'risk assessment function' refers to the generally understood concept of risk assessment within a *firm*, that is, the function of setting and controlling risk exposure. The risk assessment function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- ...
- 3.2.15 G Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to form an audit committee. An audit committee could typically examine management's process for ensuring the appropriateness and effectiveness of systems and controls, examine the arrangements made by management to ensure compliance with requirements and standards under the *regulatory system*, oversee the functioning of the internal audit function (if applicable – see SYSC 3.2.16G) and provide an interface between management and the external auditors ...
- 3.2.16 G (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to delegate much of the task of monitoring the appropriateness and effectiveness of its systems and controls to an ~~*internal audit function*~~ internal audit function. An ~~*internal audit function*~~ internal audit function should have clear responsibilities and reporting lines to an audit committee or appropriate *senior manager*, be adequately resourced and staffed by competent individuals, be independent of the day-to-day activities of the *firm* and have appropriate access to a *firm's* records.
- (2) The term 'internal audit function' refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- ...

- 6.2.2 G The term 'internal audit function' in SYSC 6.2.1R (and SYSC 4.1.11G) refers to the generally understood concept of internal audit within a *common platform firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- ...
- 7.1.8 G (1) ...
- (2) The term 'risk management function' in SYSC 7.1.6R and SYSC 7.1.7R refers to the generally understood concept of risk assessment within a *common platform firm*, that is, the function of setting and controlling risk exposure. The risk management function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- ...
- 14.1.33 G Where a *firm* outsources a *controlled function*, such as ~~*internal audit*~~ internal audit it should ...
- ...
- 14.1.39 G (1) In accordance with SYSC 3.2.10G a *firm* should consider whether it needs to set up a separate ~~*risk assessment function*~~ risk assessment function (or functions) that is responsible for assessing the risks that the *firm* faces and advising its *governing body* and *senior managers* on them.
- (2) The term 'risk assessment function' refers to the generally understood concept of risk assessment within a *firm*, that is, the function of setting and controlling risk exposure. The risk assessment function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- 14.1.40 G Where a *firm* does decide that it needs a separate ~~*risk assessment function*~~ risk assessment function, the *employees* or contractors that carry out this function should not normally be involved in risk taking activities such as business line management (see SYSC 14.1.30G to SYSC 14.1.33G on the segregation of duties).
- 14.1.41 G A summary of the results of the analysis undertaken by a *firm's* ~~*risk assessment function*~~ risk assessment function in accordance with SYSC 14.4.39G (including, where necessary, an explanation of any assumptions that were adopted) should normally be reported to relevant *senior managers* as well as to the *firm's governing body*.
- ...

- 14.1.43 G (1) In accordance with SYSC 3.2.15G and SYSC 3.2.16G, a *firm* should consider whether it needs to set up a dedicated ~~*internal audit function*~~ internal audit function.
- (2) The term 'internal audit function' refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28).
- 14.1.44 G Where a *firm* decides to set up an ~~*internal audit function*~~ internal audit function, this function should provide independent assurance to its *governing body*, audit committee or an appropriate *senior manager* of the integrity and effectiveness of its systems and controls.
- 14.1.45 G In forming its judgements, the *person* performing the ~~*internal audit function*~~ internal audit function should test the practical operation of a *firm's* systems and controls as well as its accounting and risk policies. This should include examining the adequacy of supporting records.
- ...
- 14.1.48 G A *firm* should consider what information needs to be made available to its *governing body* and *senior managers*. Some possible examples include:
- (1) ...
- (3) reports from a *firm's* ~~*internal audit and risk assessment functions*~~ internal audit and risk assessment functions (see SYSC 14.1.43G and SYSC 14.1.39G), if applicable, including exception reports, where risk limits and policies have been breached or systems circumvented;
- (4) ...

...

## Annex C

### 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.

#### 1.1 Application

##### Who?

1.1.1 G *APER applies to approved persons.*

1.1.2 G The *Statements of Principle* apply only to the extent that a *person* is performing a *controlled function* for which approval has been sought and granted.

1.1.3 G Section 64(11) of the *Act* states that the power to issue *Statements of Principle* and codes of practice includes power to make different provisions in relation to *persons*, cases or circumstances of different descriptions. *Statements of Principle* 1, 2, 3 and 4 apply to all *approved persons*, and *Statements of Principle* 5, 6 and 7 apply to those approved to perform *significant influence functions*.

1.1.4 G The relevance of *MiFID* to the *Statements of Principle* will depend on the extent to which the corresponding requirement imposed on *firms* under *MiFID* is reserved to a *Home State regulator* or has been disapplied under *MiFID* (see *APER* 2.1.1AP and *FIT* 1.2.4AG. See also *COBS* App1 Part 3, 1.1R (EEA territorial scope rule: compatibility with European law)).

##### Where?

1.1.5 G The territorial scope of the *approved persons* regime and its application to *incoming EEA firms* is set out in *SUP* 10.1 (see *SUP* 10.1.13R and 10.1.14R).

1.2	Purpose	
1.2.1	...	
1.2.4	G	[deleted]
...		

2.1	The <u>Statements of Principle</u>	
2.1.1	G	...
<u>2.1.1A</u>	P	<u>An approved person will not be subject to a <i>Statement of Principle</i> to the extent that it would be contrary to the <i>UK's</i> obligations under a <i>Single</i></u>

		<u>Market Directive.</u>
...		

## Annex D

### Amendments to The Fit and Proper test for Approved Persons sourcebook (FIT)

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

1.2	Introduction	
...		
1.2.4A	G	<u>Under Article 5(1)(d) of the <i>MiFID Implementing Directive</i> and Article 31 and 32 of <i>MiFID</i>, the requirement to employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them is reserved to the <i>firm's Home State</i>. Therefore, in assessing the fitness and propriety of a <i>person</i> to perform a <i>controlled function</i> solely in relation to the <i>MiFID business</i> of an <i>incoming EEA firm</i>, the <i>FSA</i> will not have regard to that <i>person's</i> competence and capability.</u>

## Annex E

### Amendments to the Prudential sourcebook for Insurers (INSPRU)

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

- 4.1.60 G In addition to the regular review and evaluation described in *INSPRU* 4.1.59G, a *firm's* internal audit function (see *SYSC* 3.2.16G or, as the case may be, *SYSC* 6.2.1R) should periodically review the liquidity risk management process in order to identify any weaknesses or problems. Any weaknesses should be addressed by management in a timely and effective manner.

...

## Annex F

### Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

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

...

- 2.2.2 R The *firm* may allocate the responsibility for its *insurance mediation activity* under *MIPRU 2.2.1R* to an *approved person* (or *persons*) performing:
- (1) a *governing function* (other than the *non-executive director function*);  
or
  - (2) the *apportionment and oversight function*; or
  - (3) the *significant management* (~~*other business operations*~~) *function* in so far as it relates to *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order* (Absence of holding out etc)(or *agreeing to do so*) or an activity which is not *designated investment business*.
- 2.2.3 G ...
- (3) In the case of a *sole trader*, the *sole trader* will be responsible for the *firm's insurance mediation activity*, ~~whether or not he is himself a person approved to perform the *sole trader function*.~~

## Annex G

### Amended text to be inserted in the Supervision manual (SUP)

In this annex, underlining indicates new text and striking through indicates deleted text. Where an entire section of the text is being deleted, the place where the change will be made is indicated and the text is not struck through.

...

- 4.6.1 G The *Society* must:
- (1) appoint an *actuary* to perform the *Lloyd's actuary* ~~function~~ function;

...

...

- 4.6.8 R An *actuary* who has been appointed to perform the *Lloyd's actuary* ~~function~~ function must:

...

- 10.1.3 G The *rules* in this chapter specify the descriptions of *controlled functions* ~~functions~~ under section 59 of the *Act* (Approval for particular arrangements). ~~The effect of these *rules*, and the provisions of Part V of the *Act* (Performance of Regulated Activities), is that every *firm*, except an *overseas firm* to which SUP 10.1.6R applies, must apply for the approval of one or more *persons* to perform a *controlled function* on its behalf.~~

...

- 10.1.5 G [deleted]

...

- 10.1.7 R Only the following *controlled functions* apply to an *overseas firm* which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on:
- (1) ...
- (3) the *significant management* ~~(*designated investment business*)~~ 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

(4) [deleted]

(5) The *customer functions*.

10.1.8 G [deleted]

Incoming EEA firms, incoming Treaty firms and UCITS qualifiers

...

10.1.13 R Only the following *controlled functions* apply to an *incoming EEA firm* with respect to its *passport activities* carried on from a *branch* in the *United Kingdom*:

(1) the *EEA investment business oversight function*;

(2) the *compliance oversight function*;

(3) the *money laundering reporting function*;

(4) the *significant management (~~designated investment business~~) 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*

(5) [deleted]

(6) the *customer functions* other than the *adviser on syndicate participation at Lloyd's function*.

10.1.13A R *If the only regulated activities carried on by an incoming EEA firm in the United Kingdom are MiFID business, only SUP 10.1.13R(3), (4) and (6) apply to that firm.*

10.1.13B G *If an incoming EEA firm carries on designated investment business which consists of both MiFID business and other regulated activities, SUP 10.1.13R(1) and (2) will apply to that firm, but only in relation to that part of the business that is not MiFID business.*

Incoming EEA firms etc with top-up permission activities from a UK branch

10.1.14 R In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *controlled functions* apply:

- (1) the *required functions*, other than the *apportionment and oversight function*;
- (2) the *significant management* (~~*designated investment business*~~) *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
- (3) [deleted]
- (4) the *customer functions*.

10.1.15 G [deleted]

Appointed representatives

10.1.16 R The descriptions of the following *controlled functions* ~~functions~~ apply to an *appointed representative* of a *firm*, except an *introducer appointed representative*, as they apply to a *firm*:

- (1) the *governing functions*, subject to SUP 10.1.16A R; and
- (2) the *customer functions* other than the *investment management function*.

...

10.1.17 G [deleted]

Members of a profession

10.1.18 R ...

10.1.19 G [deleted]

10.1.20 G [deleted]

10.1.21 R The descriptions of *significant influence functions*, other than the *required functions*, and if the *firm* is a *MiFID investment firm*, the *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:

....

Committees of the Society of Lloyd's

10.1.24 G [deleted]

10.1.25 G [deleted]

...

## 10.2 Purpose

10.2.1 G The immediate purpose of *SUP* 10.3 to *SUP* 10.10 is to specify, under section 59 of the *Act*, descriptions of the ~~27~~ 22 *controlled functions* which are listed in *SUP* 10.4.5 R. The underlying purpose is to establish, and mark the boundaries of, the "approved persons regime". ~~An approved person is a person, generally an individual, who is approved to perform a controlled function.~~

10.2.2 G [deleted]

10.2.3 G [deleted]

10.2.4 G [deleted]

## 10.4 Specification of functions

10.4.1 R ...

10.4.2 G [deleted]

...

10.4.4 G [deleted]

10.4.5 R Controlled functions

Type	CF	Description of controlled function
<i>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>

	7	<del>Sole trader function</del> [deleted]
Required functions*	8	Apportionment and oversight function
	9	EEA investment business oversight function
	10	Compliance oversight function
	11	Money laundering reporting function
	12	Actuarial function
	12A	With-profits actuary function
	12B	Lloyd's actuary function
Systems and controls functions*	<del>13</del> 28	<del>Finance function</del> <u>Systems and controls function</u>
	14	<del>Risk assessment function</del> [deleted]
	15	<del>Internal audit function</del> [deleted]
Significant management functions*	<del>16</del> 29	<del>Significant management (designated investment business) function</del>
	17	<del>Significant management (other business operations) function</del> [deleted]
	18	<del>Significant management (insurance underwriting) function</del> [deleted]
	19	<del>Significant management (financial resources) function</del> [deleted]
	20	<del>Significant management (settlements) function</del> [deleted]
Customer functions	21	Investment adviser function
	22	Investment adviser (trainee) function
	23	Corporate finance adviser function
	24	Pension transfer specialist function

	25	<i>Adviser on syndicate participation at Lloyd's function</i>
	26	<i>Customer trading function</i>
	27	<i>Investment management function</i>
*significant influence functions		

10.5 Significant influence functions

10.5.1 G The *significant influence functions*, which are specified in SUP 10.4.1R, comprise the *governing functions* (see SUP 10.6), the *required functions* (see SUP 10.7), the *systems and controls functions* (see SUP 10.8) and the *significant management functions* (see SUP 10.9). SUP 10.5 applies to each of the *significant influence functions*.

...

10.5.4 G Whether a ~~function~~ *controlled function* is likely to result in the *person* responsible for its performance exercising significant influence on the conduct of the *firm's* affairs is a question of fact in each case. The FSA has identified the *significant influence functions* as satisfying this condition. ~~What amounts to exercising significant influence in any particular case will depend on the circumstances. The person performing one of these functions is likely to play a part in ensuring that effective governance structures, systems and controls are developed and operated. In relation to a firm as a whole, this is expected to include setting the business strategy, regulatory climate and ethical standards of the firm. In relation to a branch, this will include ensuring that the firm's strategy (as it affects the branch) is appropriate in the context of the UK regulatory system, and setting the regulatory climate and ethical standards of the branch in the United Kingdom.~~

...

10.6 Governing functions

Introduction

...

10.6.1A G *A sole trader does not fall within the description of the governing functions.*

What the governing functions include

10.6.2 R Each of the *governing functions* (other than the *non-executive director*

*function*) includes where apportioned under SYSC 2.1.1R:

- (1) the systems and controls functions; and
- (2) the significant management functions.

10.6.3 G The effect of SUP 10.6.2R is that a *person* who is *approved* to perform a *governing function* (other than the *non-executive function*) will not have to be specifically approved to perform ~~any of the systems and controls functions or the significant management functions~~. ~~However, a firm may apply for the systems and control functions or significant management functions to be explicitly added for such persons, if it wishes.~~ A *person* who is *approved* to perform a *governing function* will have to be additionally approved before he can perform any of the *required functions* or *customer functions*.

10.6.3A G ~~PRU 9.1.3R~~ MIPRU 2.2.1R provides that an *insurance intermediary*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance mediation activity*. ~~PRU 9.1.4R(1)~~ MIPRU 2.2.2R (1) provides that the *firm* may allocate this responsibility to one or more of the *persons* performing a *governing function* (other than the *non-executive director function*).

10.6.3B G Where a *person* (including a *person* performing a *governing function*) is responsible for the *firm's insurance mediation activity*, the words "(insurance mediation)" will be inserted after the relevant *controlled function* (see ~~PRU 9.1.7G~~ MIPRU 2.2.5G).

Director function (CF1)

...

10.6.5 G [deleted]

10.6.6 G [deleted]

...

Non-executive director function (CF2)

...

10.6.9 G [deleted]

10.6.10 G [deleted]

Chief executive function (CF3)

...

10.6.12 G [deleted]

...

10.6.14 G For a *branch* in the *United Kingdom* of an *overseas firm*, the *FSA* would not normally expect the overseas *chief executive* of the *firm* as a whole to be approved for this function where there is a *senior manager* under him with specific responsibility for those activities of the *branch* which are subject to the *UK regulatory system*. In some circumstances, the *person* within the *firm* responsible for *UK operations* may, if the function is likely to enable him to exercise significant influence over the *branch*, also perform the *chief executive function* (see *SUP 10.7.4G*). ~~The *senior manager* may be called a *Managing Director*, *UK Regional Head*, *Branch Manager*, *UK Country Head*; or, in the case of a non-*EEA insurer* with a *branch* in the *United Kingdom*, *UK chief executive*.~~

...

Partner function (CF4)

...

10.6.18 G [deleted]

...

10.6.22 G [deleted]

...

Director of unincorporated association function (CF5)

...

10.6.25 G [deleted]

Small friendly society function (CF6)

...

10.6.27 G [deleted]

...

~~Sole trader function (CF7)~~

10.6.30 R [deleted]

10.6.31 G [deleted]

10.6.32 G [deleted]

- 10.7 Required functions
- Apportionment and oversight function (CF8)
- ...
- 10.7.2 G [deleted]
- ...
- 10.7.4 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, he will not need to be an *approved person*. However, where, in accordance with *SYSC 3* or *SYSC 4* to *SYSC10*, 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 a *controlled function*, such as, for example, the *chief executive function*. This is subject to *SUP 10.1.13AR*, which applies where the *firm* is a *MiFID investment firm* and the only *regulated activities* carried out by it in the *United Kingdom* are *MiFID business*.
- 10.7.4A G ~~*PRU 9.1.3R*~~ *MIPRU 2.2.1R* provides that an *insurance intermediary*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance mediation activity*. ~~*PRU 9.1.4R (2)*~~ *MIPRU 2.2.2R (2)* provides that the *firm* may allocate this responsibility to the *person* performing the *apportionment and oversight function*.
- 10.7.4B G Where the *person* performing the *apportionment and oversight function* is also responsible for the *firm's insurance mediation activity*, the words "(insurance mediation)" will be inserted after this *controlled function* (see ~~*PRU 9.1.7G*~~ *MIPRU 2.2.5G*).
- 10.7.5 G [deleted]
- ...
- Compliance oversight function (CF10)
- 10.7.8 R The *compliance oversight function* is the function of acting in the capacity of a *director* or *senior manager* who is allocated the function set out in *SYSC 3.2.8 R* or *SYSC 6.1.4R (2)*.
- 10.7.9 G [deleted]
- 10.7.10 G [deleted]
- 10.7.11 G [deleted]
- 10.7.12 G [deleted]

Money laundering reporting function (CF11)

...

10.7.13B G A firm's obligations in respect of its money laundering reporting officer are set out in SYSC 3.2.61R and SYSC 6.

Actuarial function (CF 12) and *with-profits actuary function* (CF12A)

...

10.7.18 G [deleted]

10.7.19 G [deleted]

10.7.20 G [deleted]

10.7.21 G [deleted]

Lloyd's actuary function (CF12B)

10.7.22 R ~~The Lloyd's actuary function~~ function is the function of acting in the capacity of the *actuary* appointed under SUP 4.6.1R to perform the duties set out in SUP 4.6.7R.

10.7.23 G [deleted]

10.8 Systems and control functions

~~Finance~~ Systems and controls function (CF13 28)

10.8.1 R ~~The finance function is the function of acting in the capacity of a senior manager with responsibility for reporting to the governing body of a firm in relation to its financial affairs.~~ 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 3.2.10G and SYSC 7.1.6R);

(3) adherence to internal systems and controls, procedures and policies (see SYSC 3.2.16G and SYSC 6.2).

10.8.2 G [deleted]

10.8.2A G Where an *employee* performs the *systems and controls function* the *FSA* 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.

~~Risk assessment function (CF14)~~

10.8.3 R ~~[deleted]~~

10.8.4 G ~~[deleted]~~

10.8.5 G ~~[deleted]~~

~~Internal audit function (CF15)~~

10.8.6 R ~~[deleted]~~

10.8.7 G ~~[deleted]~~

10.8.8 G ~~[deleted]~~

## 10.9 Significant management functions

### Application

10.9.1 R *SUP* 10.9 applies only to a *firm* which, under *SYSC* 2.1.1R, apportions a significant responsibility, within the description of a the significant management function, to a *senior manager* of a significant business unit.

10.9.2 G The *FSA* anticipates that there will be only a few *firms* needing to seek approval for an individual to perform a ~~the significant management function~~. In most *firms*, those approved for the *governing functions*, *required functions* and, where appropriate, the *systems and controls functions*, are likely to exercise all the significant influence at senior management level.

10.9.3 G However, the scale, nature and complexity of the *firm's* business may be such that a *firm* apportions under *SYSC* 2.1.1R a significant responsibility to an individual who is not approved to perform the *governing functions*, *required functions* or, where appropriate, the *systems and controls functions*. If so, the *firm* should consider whether the functions of that individual fall within a the significant management function. For the purposes of the description of the *significant management function*, the following additional factors about the *firm* should be considered:

...

10.9.5 G The question may arise whether a manager who is based overseas will be performing a ~~controlled function (such as the significant management (designated investment business) function)~~ and should therefore be an *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 *FSA*, may have a bearing on this. It is a factor to take into account when assessing the likely influence of the overseas manager.

...

...

10.9.7 G See also *SUP* 10.7.3G to *SUP* 10.7.4B 5G in relation to matrix management.

...

Significant management (~~designated investment business~~) function (CF46 29)

10.9.10 R (1) ~~The significant management (designated investment business) function is the function of acting as a senior manager with significant responsibility for a significant business unit which carries on designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order (Absence of holding out etc), (and agreeing to do so). The significant management function is the function of acting as a senior manager with significant responsibility for a significant business unit that:~~

(a) carries on designated investment business or other activities not falling within (b) – (d);

(b) effects contracts of insurance (other than contractually based investments);

(c) 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;

(d) processes confirmations, payments, settlements, insurance claims, client money and similar matters.

(2) This ~~function~~ controlled function does not include any of the activities described in any other *controlled function*.

10.9.10A G A senior manager with significant responsibility for a significant business unit that carries on activities other than designated investment business for the purposes of SUP 10.9.10R (1)(a) could, for example, be the head of a unit carrying on the activities of: retail banking, 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. The senior manager could also be a proprietary trader whose trading limits are such that he may put, or potentially put, his firm at significant risk. This function would not

extend to every proprietary trader.

10.9.11 G [deleted]

~~Significant management (other business operations) function (CF17)~~

10.9.12 R [deleted]

10.9.13 G [deleted]

10.9.13A G ~~PRU 9.1.3R MIPRU 2.2.1R~~ provides that an *insurance intermediary*, other than a *sole trader*, must allocate to a *director* or *senior manager* the responsibility for the *firm's insurance mediation activity*. ~~PRU 9.1.4R(3) MIPRU 2.2.2R (3)~~ provides that the *firm* may allocate this responsibility to the *person* performing the *significant management (other business operations) function*.

10.9.13B G Where the *person* performing the *significant management (other business operations) function* is also responsible for the *firm's insurance mediation activity*, the words "(insurance mediation)" will be inserted after this *controlled function* (see ~~PRU 9.1.7G MIPRU 2.2.5 G~~).

~~Significant management (insurance underwriting) function (CF18)~~

10.9.14 R [deleted]

10.9.15 G [deleted]

~~Significant management (financial resources) function (CF19)~~

10.9.16 R [deleted]

10.9.17 G [deleted]

~~Significant management (settlements) function (CF20)~~

10.9.18 R [deleted]

10.9.19 G [deleted]

10.9.20 G [deleted]

	Frequently asked questions		
	G		
10 Ann 1 10 Ann 1G:		Question	Answer
		Requirements of the regime	
	1	...	
	2	What are the procedures for 'emergency situations'?	Individuals may perform <u>the significant influence functions</u> for up to 12 weeks ...
		...	
	11	What checks <del>must</del> <u>should</u> a <i>firm</i> make on a <i>candidate</i> before submitting an application for approval from the <i>FSA</i> ?	The <i>FSA</i> expects <i>firms</i> to perform due and diligent enquiries about their <i>candidates</i> <u>before they submit an application to us for approval. Our approval process is not a substitute for the checks that a <i>firm</i> should be carrying out on its prospective recruits. It is for the <i>firm</i> to determine what checks are appropriate but in making its decision, a <i>firm</i> should have regard to the <i>controlled function</i> to which the application relates. Note also the provisions of <i>ENF</i> 8.12.2 G (Publication) and <i>TC</i> 2.2.1R (Recruitment).</u>
	11A	Should these checks include a check of criminal records?	It is for senior management to decide what checks should be made. <u>In deciding if it is necessary to carry out a check of criminal records, the <i>firm</i> should consider that the <i>FSA</i> does not routinely carry out these checks during the approval process. ...</u>

12.2.14 G (1) ...

- (2) If a *firm* appoints an *appointed representative* who is an individual in (1), that *appointed representative* will also be a *representative*. The individual may need to be approved to perform the *investment adviser function* or the *customer trading function* or both ~~and possibly also the *sole trader function*~~, (see *SUP* 12.6.8 G and *SUP* 12.6.9 G). In these circumstances, in addition to complying with the requirements of *SUP* 12 and other regulatory requirements, the *firm* should ensure that the *rules* for *representatives* in *COB* 5 (Advising and selling) are

complied with.

...

**Part 1:**

Transitional provisions applying to the Supervision manual only

(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
...					
8A	<u>SUP 10.4.1R</u>	<u>R</u>	<p><u>(1) An application made under section 60 of the Act received before 31 October 2007 will be taken to relate to the <i>controlled function</i> existing at the date of determination.</u></p> <p><u>(2) The <i>controlled functions</i> CF 13 (<i>finance function</i>), CF 14 (<i>risk assessment function</i>) and CF 15 (<i>internal audit function</i>) are subsumed in the new <i>controlled function</i> CF 28 (<i>systems and controls function</i>) to the extent that they fall within the description of the <i>systems and controls function</i>.</u></p> <p><u>(3) The <i>controlled functions</i> CF 16 (<i>significant management (designated investment business) function</i>), CF 17 (<i>significant management (other business operations)</i>)</u></p>	<p><u>From 1 November 2007</u></p> <p><u>On 1 November 2007</u></p> <p><u>On 1 November 2007</u></p>	<p><u>From 1 November 2007</u></p> <p><u>On 1 November 2007</u></p> <p><u>On 1 November 2007</u></p>

(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
			<p><i>function</i>), CF 18 (<i>significant management (insurance underwriting) function</i>), CF 19 (<i>significant management (financial resources) function</i>) and CF 20 (<i>significant management (settlements) function</i>) are subsumed in the new <i>controlled function</i> CF 29 (<i>significant management function</i>) to the extent that they fall within the description of the <i>significant management function</i>.</p>		
8B		G	<p>(1) The effect of TP 8AR is that if immediately prior to 1 November 2007 a <i>person</i> was an <i>approved person</i> in relation to any of the <i>controlled functions</i> to be subsumed into the <i>systems and controls function</i> the original grant of approval by the FSA will remain valid in relation to the <i>systems and controls function</i> and no new approval to perform that <i>controlled function</i> will be required.</p> <p>(2) The effect of TP 8AR is that if immediately prior to 1</p>		

(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
			<p><u>November 2007 a person was an approved person in relation to any of the controlled functions to be subsumed into the significant management function the original grant of approval by the FSA will remain valid in relation to the significant management function and no new approval to perform that controlled function will be required.</u></p>		
8C		G	<p><u>Firms are reminded of their obligation under SUP 10.13.16R to notify the FSA if the firm becomes aware of information which would be reasonably material to the continuing assessment of an approved person's fitness and propriety and in particular their competence to perform a function.</u></p>		
8D	<p><u>SUP 10.13.6R (Ceasing to perform a controlled function) and SUP 10.13.3D (Moving within a firm)</u></p>	R	<p><u>The obligation to submit Form C or Form E does not apply in relation to a person who:</u></p> <p><u>(a) ceases to perform a controlled function because that controlled function ceases to exist on 1 February 2007; or</u></p> <p><u>(b) performs a function</u></p>	<p><u>From 1 February 2007 in relation to the sole trader function and 1 November 2007 in all other cases.</u></p>	<p><u>From 1 February 2007 in relation to the sole trader function and 1 November 2007 in all other cases.</u></p>

(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
			<u>which falls within the description of a different controlled function after 1 November 2007 as a result of TP 8AR.</u>		

## Annex H

### Amendments to the Credit Unions sourcebook (CRED)

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

2.4.4 G ...For example, *CRED* 4.3.11E indicates that a failure of a *credit union* to have an ~~*internal audit function*~~ internal audit function would “tend to establish contravention” of the *rule* (described earlier in *CRED* 4.3.1G) that all *firms* should take reasonable care to establish and maintain such systems and controls as are appropriate to their business.

...

4.3.11 E (1) A *credit union* should have an ~~*internal audit function*~~ internal audit function (this may be either in house or outsourced to a third party).

...

4.3.12 G The term 'internal audit function' in *CRED* 4.3.11E refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28). Guidance on internal audit is given in *CRED* 4.3.50G - *CRED* 4.3.60G.

...

4.3.50 G *CRED* 4.3.11E states that ~~an *internal audit function* should oversee the internal audit process~~ a *credit union* should have an internal audit function (see also *CRED* 4.3.12G).

...

4.3.54 G The ~~*internal audit function*~~ internal audit function (see *CRED* 4.3.12G) should develop an audit plan, covering all aspects of the *credit union's* business....

...

4.3.56 G The key elements of a satisfactory system of internal audit include the following:

- (1) Terms of reference. These should be specified with precision and include, amongst other things, scope and objectives of the audit committee and the ~~internal audit function~~ internal audit function (see CRED 4.3.12G), access to records, powers to obtain information and explanations for *officers*, and reporting requirements. These should be approved by the committee of management.

...

4.3.57 G The ~~internal audit function~~ internal audit function (see CRED 4.3.12G) should be independent of all of the functions it inspects.

...

4.3.59 G The qualifications, experience and training of individuals performing the ~~internal audit function~~ internal audit function (see CRED 4.3.12G) should be adequate in relation to its objectives.

4.3.60 G The committee of management should be satisfied that the ~~internal audit function~~ internal audit function (see CRED 4.3.12G) is being properly carried out. In order to review the overall effectiveness of the ~~internal audit function~~ internal audit function it should consider the following:

...

- (5) a review of the overall effectiveness of the ~~internal audit function~~ internal audit function.

...

SUP 10.8: the systems and controls function

6.3.9 G ~~SUP 10.8: the systems and controls functions: The function of acting as an employee with responsibility for reporting to the committee of management in relation to:~~

- (1) ~~SUP 10.8.1R the finance function~~

~~The function of acting in the capacity of a senior manager with responsibility for reporting to the committee of management in relation to its financial affairs. its financial affairs;~~

- (2) ~~SUP 10.8.3R: the risk assessment function~~

~~The function of acting in the capacity of a senior manager with responsibility for reporting to the committee of management on the setting and controlling of its risk exposure. setting and controlling its risk exposure; or~~

(3) ~~SUP 10.8.6R: the internal audit function~~

~~The function of acting in the capacity of a senior manager with responsibility for reporting to the committee of management in relation to its adherence to internal systems and controls, procedures and policies.~~ adherence to internal systems and controls, procedures and policies.

6.3.9A     G     Where an employee performs the systems and controls function FSA would expect the credit union to ensure that the employee had sufficient expertise and authority to perform that function effectively, for example be a director or senior manager.

6.3.10     G     ~~SUP 10.9: the significant management functions:These~~  
This controlled functions will only apply to the credit union if the functions are is not being performed by a member of the committee of management and the credit union has followed the guidance in SUP 10.9.3G.