

**SENIOR MANAGEMENT ARRANGEMENTS, SYSTEMS AND CONTROLS  
(REMUNERATION CODE) (NO 6) INSTRUMENT 2015**

**Powers exercised**

- A. The Financial Conduct 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)
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137H (General rules about remuneration);
    - (c) section 137T (General supplementary powers);
    - (d) section 138C (Evidential provisions);
    - (e) section 138D (Action for damages); and
    - (f) section 139A (Power of the FCA to give guidance); and
  - (2) the other rule and guidance making powers listed in Schedule 4 (Powers exercised) to the General Provisions of the FSA’s Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 July 2015.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Supervision manual (SUP)	Annex C

**Notes**

- E. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

**Citation**

- F. This instrument may be cited as the Senior Management Arrangements, Systems and Controls (Remuneration Code) (No 6) Instrument 2015.

By order of the Board of the Financial Conduct Authority  
4 June 2015

## Annex A

### Amendments to the Glossary of definitions

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

Insert the following new definitions and amendments in the appropriate alphabetical position. The text is not underlined

<i>dual-regulated firm</i>	(in SYSC 19D) a <i>firm</i> that is <i>bank</i> , a <i>building society</i> or a <i>UK designated investment firm</i> .
<i>dual-regulated firms Remuneration Code</i>	SYSC 19D (Dual-regulated firms Remuneration Code) for <i>dual-regulated firms</i> and <i>overseas firms</i> in SYSC 19D.1.1R(1)(d) that would have been a <i>bank</i> , <i>building society</i> or <i>UK designated investment firm</i> if it had been a <i>UK domestic firm</i> .
<i>dual-regulated firms Remuneration Code staff</i>	(in relation to a <i>dual-regulated firm</i> and an <i>overseas firm</i> in SYSC 19D.1.1R(1)(d) that would have been a <i>bank</i> , <i>building society</i> or <i>UK designated investment firm</i> if it had been a <i>UK domestic firm</i> ) has the meaning in SYSC 19D.3.4R which is, in summary, an <i>employee</i> whose professional activities have a material impact on the <i>firm's</i> risk profile, including any <i>employee</i> who is deemed to have a material impact on the <i>firm's</i> risk profile in accordance with Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers).
<i>dual-regulated firms remuneration principles proportionality rule</i>	SYSC 19D.3.3R which, in summary, requires a <i>dual-regulated firm</i> to apply the remuneration principles for <i>dual-regulated firms</i> in SYSC 19D proportionate to its size, internal organisation and the nature, the scope and the complexity of its activities.
<i>EBA</i>	European Banking Authority.

Amend the following definitions as shown:

<i>discretionary pension benefit</i>	...  (2) (in <i>IFPRU</i> , <del>and SYSC 19A</del> <u>(IFPRU Remuneration Code) and SYSC 19D (Dual-regulated firms Remuneration Code)</u> has the meaning in article 4(1)(73) of the <i>EU CRR</i> .
<i>investment firm</i>	...

	...
	(5) (in SYSC 19A ( <u>IFPRU Remuneration Code</u> )) a <i>firm</i> in (3).
	(6) ( <u>in SYSC 19D (Dual-regulated firms Remuneration Code)</u> ) a <i>firm</i> in (3) that is a <u>UK designated investment firm</u> .
<i>parent undertaking</i>	...
	(3) (for the purposes of <i>GENPRU 3</i> , <i>BIPRU 12</i> , <i>IFPRU<sub>2</sub></i> <del>and SYSC 19A (IFPRU Remuneration Code)</del> and <u>SYSC 19D (Dual-regulated firms Remuneration Code)</u> ) has the meaning in article 4(1)(15) of the <i>EU CRR</i> but so that (in accordance with article 2(9) of the <i>Financial Groups Directive</i> ) article 4(1)(15)(b) applies for the purpose of <i>GENPRU 3</i> .
<i>Remuneration Code</i>	<u>SYSC 19A (IFPRU Remuneration Code) for IFPRU investment firms and overseas firms in SYSC 19A.1.1R(1)(d) that would have been an IFPRU investment firm if it had been a UK domestic firm.</u>
<i>Remuneration Code staff</i>	...
	(for a <del>CRR firm</del> <u>an IFPRU investment firm and an overseas firm in SYSC 19A.1.1R(1)(fd) that would have been an IFPRU investment firm if it had been a UK domestic firm</u> ) has the meaning given in SYSC 19A.3.4R which is, in summary, <u>an employee whose professional activities have a material impact on the firm's risk profile, including any employee who is deemed to have a material impact on the firm's risk profile in accordance with Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers).</u>
<i>UK designated investment firm</i>	...
	(in <i>BIPRU 12</i> and <u>SYSC 19D</u> ) a <i>designated investment firm</i> which is a <i>body corporate</i> or <i>partnership</i> formed under the law of any part of the <i>UK</i> .

## 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.

#### 1 Application and purpose

##### 1.1A Application

- 1.1A.1 G The application of this sourcebook is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

Type of firm	Applicable chapters
<i>Insurer</i>	Chapters 2, 3, 11 to 18, 21
<i>Managing agent</i>	Chapters 2, 3, 11, 12, 18, 21
<i>Society</i>	Chapters 2, 3, 12, 18, 21
Every other <i>firm</i>	Chapters 4 to 12, 18, <del>19A</del> , <u>19D</u> , 21

Firms that SYSC 19D applies to should also refer to the Remuneration part of the PRA Rulebook.

- 1.1A.1A G The application of this sourcebook to *firms* that are not *PRA-authorised persons* is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

<u>Type of firm</u>	<u>Applicable chapters</u>
<u><i>Full-scope UK AIFM</i></u>	<u>Chapter 19B, 21</u>
<u><i>BIPRU firm (including a third-country BIPRU firm)</i></u>	<u>Chapters 4 to 10, 12, 18, 19C, 21</u>
<u><i>IFPRU investment firm (including an overseas firm that would have been an IFPRU investment firm if it had been a UK domestic firm)</i></u>	<u>Chapters 4 to 10, 12, 18, 19A, 21</u>

...

#### 1.4 Application of SYSC 11 to SYSC 21

...

- 1.4.1A R *SYSC 12, SYSC 19A, SYSC 19D, SYSC 20 and SYSC 21 do not apply to a firm in relation to its carrying on of auction regulation bidding.*
- 1.4.1B G *Apart from SYSC 12, SYSC 19A, SYSC 19D, SYSC 20, and SYSC 21, which are disapplied by SYSC 1.4.1AR, the other chapters of SYSC 11 to SYSC 17 do not apply in relation to a firm's carrying on of auction regulation bidding because they only apply to an insurer. SYSC 18 provides guidance on the Public Interest Disclosure Act.*

...

## **4 General organisational requirements**

### **4.1 General requirements**

...

- 4.1.2 R *For a common platform firm, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R must be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and of the common platform firm's activities and must take into account the specific technical criteria described in SYSC 4.1.7R, SYSC 5.1.7R, SYSC 7 and ~~(for a firm to which SYSC 19A applies) SYSC 19A or (for a full-scope UK AIFM) SYSC 19B~~ whichever of the following as applicable:*

- (1) (for a firm to which SYSC 19A applies) SYSC 19A (IFPRU Remuneration Code);*
- (2) (for a full-scope UK AIFM) SYSC 19B (AIFM Remuneration Code);*
- (3) (for a firm to which SYSC 19C applies) SYSC 19C (BIPRU Remuneration Code);*
- (4) (for a firm to which SYSC 19D applies) SYSC 19D (Dual-regulated firms Remuneration Code); or*
- (5) (for a firm to which the remuneration part of the PRA Rulebook applies) the remuneration part of the PRA Rulebook.*

...

## **6 Compliance, internal audit and financial crime**

### **6.1 Compliance**

...

6.1.4-A G In setting the method of determining the *remuneration of relevant persons* involved in the compliance function:

- (1) *firms that SYSC 19A applies to will also need to comply with the Remuneration Code; and*
- (2) *BIPRU firms will also need to comply with the BIPRU Remuneration Code;*
- (3) *firms that SYSC 19D applies to will also need to comply with the dual-regulated firms Remuneration Code; and*
- (4) *firms that the remuneration part of the PRA Rulebook applies to will also need to comply with it.*

...

## 7 Risk control

### 7.1 Risk control

...

7.1.7B G In setting the method of determining the *remuneration of employees* involved in the risk management function;

- (1) *firms that SYSC ~~19A~~ 19D applies to will also need to comply with the dual-regulated firms Remuneration Code; and*
- ...
- (2) *firms that the remuneration part of the PRA Rulebook applies to will also need to comply with it.*

7.1.7BC G In setting the method of determining the *remuneration of employees* involved in the risk management function, *firms that SYSC 19A applies to will also need to comply with the Remuneration Code.*

...

## 12 Group risk systems and control requirements

### 12.1 Application

...

CRR firms and non-CRR firms that are parent financial holding companies in a Member State

- 12.1.13 R If this *rule* applies under SYSC 12.1.14R to a *firm*, the *firm* must:
- ...
- (2) ensure that the risk management processes and internal control mechanisms at the level of any *consolidation group* or non-EEA *sub-group* of which it is a member comply with the obligations set out in the following provisions on a consolidated (or sub-consolidated) basis:
- ...
- (dA) the Remuneration Code or the dual-regulated firms Remuneration Code, whichever is applicable;
- ...
- ...

## 19A **IFPRU Remuneration Code**

### 19A.1 **General application and purpose**

Who? What? Where?

- 19A.1.1 R (1) The *Remuneration Code* applies to :
- (a) ~~a *building society*; [deleted]~~
- (b) ~~a *bank*; [deleted]~~
- (c) an IFPRU investment firm;
- (d) an *overseas firm* that;
- ...
- ...

### 19A.3 **Remuneration principles for ~~banks, building societies and~~ IFPRU investment firms**

...

- 19A.3.4 R ~~*Remuneration Code* staff~~ comprises categories of staff including senior management, risk takers, ~~staff engaged in control functions and any~~



~~employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers, whose professional activities have a material impact on the firm's risk profile.~~

- (1) Remuneration Code staff comprises:
- (a) an employee of an IFPRU investment firm whose professional activities have a material impact on the firm's risk profile, including any employee who is deemed to have a material impact on the firm's risk profile in accordance with Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers); or
  - (b) subject to (2) and (3), an employee of an overseas firm in SYSC 19A1.1.1R(1)(d) (i.e., an overseas firm that would have been an IFPRU investment firm if it had been a UK domestic firm) whose professional activities have a material impact on the firm's risk profile, including any employee who would meet any of the criteria set out in articles 3 or 4(1) of Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers) if it had applied to him.
- (2) An overseas firm in SYSC 19A1.1.1R(1)(d) (i.e., an overseas firm that would have been an IFPRU investment firm if it had been a UK domestic firm) may deem an employee not to be Remuneration Code staff where:
- (a) the employee:
    - (i) would meet the criteria in article 4(1) of Regulation (EU) No 604/2014 of 4 March 2014;
    - (ii) would not meet any of the criteria in article 3 of Regulation (EU) No 604/2014 of 4 March 2014;  
and
    - (iii) was awarded total remuneration of less than €750,000 in the previous year;

and
  - (b) the overseas firm determines that the professional activities of the employee do not have a material impact on its risk profile on the grounds described in article 4(2) of Regulation (EU) 604/2014 of 4 March 2014.
- (3) Where the overseas firm deems an employee not to be Remuneration Code staff as set out in (2), it must notify the FCA, applying the approach described in article 4(4) of Regulation

(EU) 604/2014 of 4 March 2014.

[**Note:** article 92(2) of *CRD* and articles 3 and 4 of Regulation (EU) No 604/2014 of 4 March 2014.]

19A.3.4A G Where an overseas firm in SYSC 19A1.1.1R(1)(d) (i.e., an overseas firm that would have been a IFPRU investment firm if it had been a UK domestic firm) wishes to deem an employee who earns more than €750,000 not to be Remuneration Code staff, the overseas firm may apply for a waiver of the requirement in SYSC 19A.3.4R in respect of that employee.

...

Remuneration Principle 12(d): Remuneration structures - ratios between fixed and variable components of total remuneration

19A.3.44 R A firm must set an appropriate ratios ratio between the fixed and variable components of total remuneration and ensure that:

...

(2) the level of the fixed component represents a sufficiently high proportion of the total remuneration to allow the operation of a fully flexible policy on variable remuneration components, including the possibility to pay no variable remuneration component; and

(3) subject to SYSC 19A.3.44AR, the ratio level of the variable component of total remuneration must not exceed 100% of the fixed component of total remuneration for each Remuneration Code staff does not exceed 1:1.

[~~Note: Paragraph 23(1) of Annex V to the Banking Consolidation Directive and~~ article 94(1)(f) and 94(1)(g)(i) of the CRD]

19A.3.44A R A firm may set a higher maximum level of the ratio between the fixed and the variable components of total remuneration that exceeds 1:1 provided the ratio:

(1) does not exceed 1:2 the overall level of the variable component does not exceed 200% of the fixed component of the total remuneration for each Remuneration Code staff; and

...

19A.3.44B R A firm must ensure that any approval by ~~the~~ its shareholders or owners or members ~~of the firm for the purposes of SYSC 19A.3.44AR of a ratio that exceeds 1:1~~ is carried out in accordance with the following procedure:

(1) the firm must give reasonable notice to all its shareholders or owners or members of the firm that the firm intends of its intention to seek approval of a ratio that exceeds 1:1 the proposed higher

ratio;

- (2) the *firm* must make a detailed recommendation to all its shareholders or owners or members ~~of the *firm* giving the reasons for, and the scope of, the approval sought, including the number of staff affected, their functions and the expected impact on the requirement to maintain a sound capital base; that includes:~~
- (a) the reasons for, and the scope of, the approval sought;
  - (b) the number of staff affected and their functions; and
  - (c) the expected impact on the requirement to maintain a sound capital base;
- (3) the *firm* must, ~~without delay, inform the *appropriate regulator* of the recommendation to its shareholders or owners or members, including the proposed ratio and the reasons therefor and must demonstrate to the *appropriate regulator* that the proposed higher ratio does not conflict with the *firm's* obligations under the *CRD* and the *CRR*, having regard in particular to the *firm's* own funds obligations;~~
- (a) without delay, inform the *FCA* of the recommendation to its shareholders or owners or members, including the proposed higher ratio and the reasons therefor; and
  - (b) demonstrate to the *FCA* that the proposed higher ratio does not conflict with its obligations under the *CRD* and the *EU CRR*, having particular regard to the *firm's* own funds obligations;
- ...
- (5) the higher ratio is approved by a majority of:
- (a) at least 66% of ~~shareholders or owners or members of the *firm* the shares or equivalent ownership rights represented, provided that if~~ at least 50% of the shareholders or owners or members shares or equivalent ownership rights in the *firm* are represented; or
  - (b) at least 75% of ~~shareholders or owners or members of the *firm* the shares or equivalent ownership rights represented,~~ if less than 50% of the shareholders, members or owners shares or equivalent ownership rights in the *firm* are represented.

[Note: article 94(1)(g)(ii) of the *CRD*]

...

19A.3.44E R In applying the discount rate in SYSC 19A.3.44DR, a *firm* must apply the *EBA Guidelines on the applicable notional discount rate for variable remuneration published on 27 March 2014.*

[Note: the *EBA Guidelines on the applicable notional discount rate for variable remuneration* can be found at:

<http://www.eba.europa.eu/documents/10180/643987/EBA-GL-2014-01+%28Final+Guidelines+on+the+discount+rate+for+remuneration%29.pdf/e8b3b3f6-6258-439d-a2d9-633e6e5de5e9> ]

...

19A.3.54 R ...

(1B) Condition 1 is that the *firm* is a ~~*UK bank, a building society, a designated investment firm, or a relevant IFPRU 730k firm*~~ that has relevant total assets exceeding £50 billion.

...

(1D) Condition 2 is that the *firm*:

(a) is a ~~*full credit institution, a designated investment firm, a relevant IFPRU 730k firm*~~ or a relevant *third country IFPRU 730k firm*; and

(b) is part of a *group* containing a *firm* that has relevant total assets exceeding £50 billion and that is a ~~*UK bank, a building society, a designated investment firm*~~ or a relevant *IFPRU 730k firm*.

...

After SYSC 19C (BIPRU Remuneration Code) insert the following new section. The text is not underlined.

## **19D Dual-regulated firms Remuneration Code**

### **19D.1 Application and purpose**

Who? What? Where?

19D.1.1 R (1) The *dual-regulated firms Remuneration Code* applies to:

(a) a *building society*;

(b) a *bank*;

- (c) a *UK designated investment firm*;
- (d) an *overseas firm* that;
  - (i) is not an *EEA firm*;
  - (ii) has its head office outside the *EEA*; and
  - (iii) would be a *firm* in (a), (b) or (c) if it had been a *UK domestic firm*, had carried on all of its business in the *United Kingdom* and had obtained whatever authorisations for doing so as are required under the *Act*.

- (2) For a *firm* which falls under (1)(a), (1)(b) or (1)(c), the *dual-regulated firms Remuneration Code* applies, in a *prudential context*, in relation to:
  - (a) its *UK* activities;
  - (b) its *passported activities* carried on from a *branch* in another *EEA State*; and
  - (c) a *UK domestic firm's* activities wherever they are carried on.
- (3) For a *firm* that falls under (1)(d), the *dual-regulated firms Remuneration Code* applies only in relation to activities carried on from an establishment in the *United Kingdom*.

19D.1.2 R Subject to the provisions on group risk systems and controls requirements in SYSC 12 (Group risk systems and controls requirements), the *dual-regulated firms Remuneration Code*:

- (1) applies in relation to *regulated activities*, activities that constitute *dealing in investments as principal* (disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc)), *ancillary activities* and (in relation to *MiFID business*) *ancillary services*;
- (2) applies in relation to the carrying on of *unregulated activities* in a *prudential context*; and
- (3) takes into account activities of other *group* members.

When?

19D.1.3 R (1) Except as set out in (2) and (3), a *firm* must apply the *remuneration* requirements in SYSC 19D.3 (Remuneration principles) in relation to:

- (a) *remuneration* awarded, whether pursuant to a contract or otherwise, on or after 1 January 2011;
- (b) *remuneration* due on the basis of contracts concluded before 1 January 2011 which is awarded or paid on or after 1 January 2011; and
- (c) *remuneration* awarded, but not yet paid, before 1 January 2011, for services provided in 2010.

[**Note:** article 3(2) of Directive 2010/76/EU]

- (2) A *firm* must apply the *remuneration* requirements in SYSC 19D.3.48R(3) (1:1 ratio of variable to fixed components) and SYSC 19.3.49R (1:2 ratio of fixed to variable components) in relation to *remuneration* awarded for services provided or performance from the year 2014 onwards, whether due on the basis of contracts concluded before, on or after 31 December 2013.

[**Note:** article 162(3) of CRD]

- (3) A *firm* must apply the *remuneration* requirements in SYSC 19D.3.59R(1)(b), SYSC 19D.3.61R(2), SYSC 19D.3.61R(3), SYSC 19D.3.61R(4), SYSC 19D.3.61R(5), SYSC 19D.3.64R and SYSC 19D.3.67R(1)(c) in relation to variable *remuneration* awarded in relation to the performance year starting on or after 1 January 2016.

19D.1.4 G Subject to SYSC 19D.1.5R, SYSC 19D.1.3R does not require a *firm* to breach requirements of applicable contract or employment law.

[**Note:** recital 14 of Directive 2010/76/EU]

#### Conflict with other obligations

- 19D.1.5 R
- (1) Where a *firm* is unable to comply with the *dual-regulated firms Remuneration Code* because to do so would breach a provision of a prior contract (including a provision in a contract with a *dual-regulated firms Remuneration Code staff member*), it must take reasonable steps to amend or to terminate the provision in question in a way which enables it to comply with the *dual-regulated firms Remuneration Code* at the earliest opportunity.
  - (2) Until the provision in (1) ceases to prevent the *firm* from complying with the *dual-regulated firms Remuneration Code*, it must adopt specific and effective arrangements, processes and mechanisms to manage the risks raised by the provision.

#### Purpose

- 19D.1.6 G
- (1) The aim of the *dual-regulated firms Remuneration Code* is to ensure that *firms* have risk-focused *remuneration* policies, which

are consistent with and promote effective risk management and do not expose them to excessive risk. It expands upon the general organisational requirements in SYSC 4.

- (2) The *dual-regulated firms Remuneration Code* implements the main provisions of the *CRD* which relate to *remuneration*. The Committee of European Banking Supervisors published Guidelines on Remuneration Policies and Practices on 10 December 2010. Provisions of the Capital Requirements Regulations 2013 (SI 2013/3115) together with the *EBA*'s Guidelines to article 75 of the *CRD* relating to the collection of *remuneration* benchmarking information and high earners information have been implemented through *SUP* 16 Annex 33AR and *SUP* 16 Annex 34AR. The Guidelines can be found at <http://www.eba.europa.eu/documents/10180/757286/EBA-GL-2014-08+%28GLs+on+remuneration+benchmarking+%29.pdf/9d87c18b-ed79-4ceb-a3f6-64928cc26065> and <http://www.eba.europa.eu/documents/10180/757283/EBA-GL-2014-07+%28GLs+on+high+earners+data+collection%29.pdf/da42488f-09c1-4558-ae4e-6258e11b8345>.

#### Notifications to the FCA

- 19D.1.7 G (1) The *dual-regulated firms Remuneration Code* does not contain specific notification requirements. However, general circumstances in which the *FCA* expects to be notified by *firms* of matters relating to their compliance with requirements under the *regulatory system* are set out in *SUP* 15.3 (General notification requirements).
- (2) For *remuneration* matters in particular, those circumstances should take into account *unregulated activities*, as well as *regulated activities* and the activities of other members of a *group*, and would include each of the following:
- (a) significant breaches of the *dual-regulated firms Remuneration Code*, including any breach of a *rule* to which the provisions on voiding and recovery in SYSC 19D Annex 1 apply;
  - (b) any proposed *remuneration* policies, procedures or practices which could:
    - (i) have a significant adverse impact on the *firm's* reputation; or
    - (ii) affect the *firm's* ability to continue to provide adequate services to its *customers* and which could result in serious detriment to a *customer* of the *firm*;

or

- (iii) result in serious financial consequences to the *financial system* or to other *firms*;
  - (c) any proposed changes to *remuneration* policies, practices or procedures which could have a significant impact on the *firm's* risk profile or resources;
  - (d) fraud, errors and other irregularities described in SUP 15.3.17R (notification of fraud, errors and other irregularities) which may suggest weaknesses in, or be motivated by, the *firm's remuneration* policies, procedures or practices.
- (3) Notifications should be made immediately as the *firm* becomes aware or has information which reasonably suggests that those circumstances have occurred, may have occurred or may occur in the foreseeable future.

#### Individual guidance

- 19D.1.8 G The *FCA's* policy on individual *guidance* is set out in SUP 9. *Firms* should particularly note the policy on what the *FCA* considers to be a reasonable request for *guidance* (see SUP 9.2.5G). For example, where a *firm* is seeking *guidance* on a proposed *remuneration* structure, the *FCA* will expect the *firm* to provide a detailed analysis of how the structure complies with the *dual-regulated firms Remuneration Code*, including the general requirement for *remuneration* policies, procedures and practices to be consistent with, and promote, sound and effective risk management.

#### Interpretation

- 19D.1.9 G Except as provided in the *Glossary*, any expression used in, or for the purpose of, this chapter which is defined or used in *EU CRR* has the meaning given by, or used in, those Regulations.

## 19D.2 General requirement

### Remuneration policies must promote effective risk management

- 19D.2.1 R A *firm* must establish, implement and maintain *remuneration* policies, procedures and practices that are consistent with, and promote, sound and effective risk management.

[**Note:** article 74(1) of *CRD*]

- 19D.2.2 G (1) The *dual-regulated firms Remuneration Code* covers all aspects of *remuneration* that could have a bearing on effective risk



management, including salaries, bonuses, long-term incentive plans, options, hiring bonuses, severance packages and pension arrangements.

- (2) As with other aspects of a *firm's* systems and controls, in accordance with SYSC 4.1.2R (general organisational requirements) *remuneration* policies, procedures and practices must be comprehensive and proportionate to the nature, scale and complexity of the *common platform firm's* activities. What a *firm* must do in order to comply with the *dual-regulated firms Remuneration Code* will therefore vary. For example, while the *dual-regulated firms Remuneration Code* refers to a *firm's remuneration committee* and risk management function, it may be appropriate for the *governing body* of a smaller *firm* to act as the *remuneration committee* and for the *firm* not to have a separate risk management function.
- (3) The *FCA* may also ask *remuneration committees* to provide it with evidence of how well the *firm's* remuneration policies meet the *dual-regulated firms Remuneration Code's* principles, together with plans for improvement where there is a shortfall. The *FCA* also expects relevant *firms* to use the principles in assessing their exposure to risks arising from their *remuneration* policies as part of the *internal capital adequacy assessment process (ICAAP)*.
- (4) The *FCA* would also expect *firms* to apply, on a *firm-wide* basis, at least the following principles relating to:
  - (a) risk management and risk tolerance (Remuneration Principle 1);
  - (b) supporting business strategy, objectives, values and long-term interests of the firm (Remuneration Principle 2);
  - (c) avoiding conflicts of interest (Remuneration Principle 3);
  - (d) governance (Remuneration Principle 4);
  - (e) risk adjustment (Remuneration Principle 8);
  - (f) pension policy (Remuneration Principle 9);
  - (g) personal investment strategies (Remuneration Principle 10);
  - (h) payments related to early termination (Remuneration Principle 12(e)); and
  - (i) deferral (Remuneration Principle 12(g)).

Record keeping

- 19D.2.3 R In line with the record-keeping requirements in SYSC 9, a *firm* must ensure that its *remuneration* policies, practices and procedures, including performance appraisals processes and decisions, are clear and documented.

Interpretation of references to remuneration

- 19D.2.4 R (1) In this chapter, references to *remuneration* include *remuneration* paid, provided or awarded by any *person* to the extent that it is paid, provided or awarded in connection with *employment* by a *firm*.
- (2) Paragraph (1) is without prejudice to the meaning of *remuneration* elsewhere in the *Handbook*.
- 19D.2.5 G For example, *remuneration* includes payments made by a seconding organisation which is not subject to the *dual-regulated firms Remuneration Code* to a secondee in respect of their *employment* by a *firm* which is subject to the *dual-regulated firms Remuneration Code*.

### 19D.3 Remuneration principles

Application: groups

- 19D.3.1 R (1) A *firm* must apply the requirements of this section at *group*, *parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is not an *EEA State*.
- (2) Paragraph (1) does not limit SYSC 12.1.13R(2)(dA) (which relates to the application of the *dual-regulated firms Remuneration Code* within *UK consolidation groups* and *non-EEA sub-groups*).

[**Note:** article 92(1) of *CRD*]

- 19D.3.2 G SYSC 12.1.13R(2)(dA) requires the *firm* to ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or *non-EEA sub-group* of which a *firm* is a member, comply with the obligations in this section on a consolidated basis (or sub-consolidated basis).

Application: categories of staff and proportionality

- 19D.3.3 R (1) This section applies in relation to *dual-regulated firms Remuneration Code staff*, except as set out in (3).
- (2) When establishing and applying the total *remuneration* policies for *dual-regulated firms Remuneration Code staff*, a *firm* must comply with this section in a way, and to the extent, that is appropriate to

its size, internal organisation and the nature, the scope and the complexity of its activities (the *dual-regulated firms remuneration principles proportionality rule*).

- (3) Paragraphs (1) and (2) do not apply to the requirement for significant *firms* to have a *remuneration committee* (SYSC 19D.3.12R).

[**Note:** article 92(2) of *CRD*]

[**Note:** In addition to the *guidance* in this section about the *dual-regulated firms remuneration principles proportionality rule*, the *FSA* gave guidance on the division of *firms* into categories for the purpose of providing a framework for the operation of the *dual-regulated firms remuneration principles proportionality rule*. This *guidance* is available on the *FCA* website at <https://www.fca.org.uk/firms/being-regulated/remuneration-codes>.]

- 19D.3.4 R (1) *Dual-regulated firms Remuneration Code staff* comprises:
- (a) an *employee* of a *dual-regulated firm* whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who is deemed to have a material impact on the *firm's* risk profile in accordance with Regulation (EU) 604/2014 of 4 March 2014 (Regulatory technical standards to identify staff who are material risk takers); or
  - (b) subject to (2) and (3), an *employee* of an *overseas firm* in SYSC 19D.1.1R(1)(d) (i.e., an *overseas firm* that would have been a *bank, building society* or *UK designated investment firm* if it had been a *UK domestic firm*) whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who would meet any of the criteria set out in articles 3 or 4(1) of Regulation (EU) 604/2014 of 4 March 2014 if it had applied to him.
- (2) An *overseas firm* in SYSC 19D1.1.1R(1)(d) (i.e., an *overseas firm* that would have been a *dual-regulated firm* if it had been a *UK domestic firm*) may deem an *employee* not to be a *dual-regulated firms Remuneration Code staff* where:
- (a) the *employee*:
    - (i) would meet the criteria in article 4(1) of Regulation (EU) No 604/2014 of 4 March 2014;
    - (ii) would not meet any of the criteria in article 3 of Regulation (EU) No 604/2014 of 4 March 2014; and

(iii) was awarded total remuneration of less than €750,000 in the previous year;

and

(b) the *overseas firm* determines that the professional activities of the *employee* do not have a material impact on its risk profile on the grounds described in article 4(2) of Regulation (EU) 604/2014 of 4 March 2014.

(3) Where the *overseas firm* deems an *employee* not to be *dual-regulated firms Remuneration Code staff* as set out in (2), it must notify the *FCA*, applying the approach described in article 4(4) of Regulation (EU) 604/2014 of 4 March 2014.

[**Note:** article 92(2) of *CRD* and articles 3 and 4 of Regulation (EU) No 604/2014 of 4 March 2014.]

19D.3.5 G Where an *overseas firm* in SYSC 19D1.1.1R(1)(d) (i.e., an *overseas firm* that would have been a *dual-regulated firm* if it had been a *UK domestic firm*) wishes to deem an *employee* who earns more than €750,000 not to be *dual-regulated firms Remuneration Code staff*, the *overseas firm* may apply for a *waiver* of the requirement in SYSC 19D.3.4R in respect of that *employee*.

19D.3.6 R A *firm* must:

- (1) maintain a record of its *dual-regulated firms Remuneration Code staff* under the general record-keeping requirements (SYSC 9); and
- (2) take reasonable steps to ensure that its *dual-regulated firms Remuneration Code staff* understand the implications of their status as such, including the potential for *remuneration* which does not comply with certain requirements of the *dual-regulated firms Remuneration Code* to be rendered void and recoverable by the *firm*.

Remuneration Principle 1: Risk management and risk tolerance

19D.3.7 R A *firm* must ensure that its *remuneration* policy is consistent with, and promotes, sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the *firm*.

[**Note:** article 92(2)(a) of *CRD*]

Remuneration Principle 2: Supporting business strategy, objectives, values and long-term interests of the firm

19D.3.8 R A *firm* must ensure that its *remuneration* policy is in line with the business strategy, objectives, values and long-term interests of the *firm*.

[**Note:** article 92(2)(b) of *CRD*]

Remuneration Principle 3: Avoiding conflicts of interest

- 19D.3.9 R A *firm* must ensure that its *remuneration* policy includes measures to avoid conflicts of interest.

[**Note:** article 92(2)(b) of *CRD*]

Remuneration Principle 4: Governance

- 19D.3.10 R A *firm* must ensure that its *management body* in its *supervisory function* adopts and periodically reviews the general principles of the *remuneration* policy and is responsible for overseeing its implementation.

[**Note:** article 92(2)(c) of *CRD* and Standard 1 of the *FSB Compensation Standards*]

- 19D.3.11 R A *firm* must ensure that the implementation of the *remuneration* policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for *remuneration* adopted by the *management body* in its *supervisory function*.

[**Note:** article 92(2)(d) of *CRD* and Standard 1 of the *FSB Compensation Standards*]

- 19D.3.12 R
- (1) A *firm* that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities must establish a *remuneration committee*.
  - (2) A *firm* in (1) must ensure that:
    - (a) the *remuneration committee* is constituted in a way that enables it to exercise competent and independent judgement on *remuneration* policies and practices and the incentives created for managing risk, capital and liquidity;
    - (b) the chairman and the members of the *remuneration committee* must be members of the *management body* who do not perform any executive function in the *firm*;
    - (c) the *remuneration committee* is responsible for the preparation of decisions regarding *remuneration*, including those which have implications for the risk and risk management of the *firm* and which are to be taken by the *management body*; and
    - (d) when preparing those decisions, the *remuneration committee* must take into account the long-term interests of shareholders, investors and other stakeholders in the *firm*

and the public interest.

[**Note:** article 95 of *CRD* and Standard 1 of the *FSB Compensation Standards*]

19D.3.13 R A *firm* that maintains a website must explain on the website how it complies with the *dual-regulated firms Remuneration Code*.

[**Note:** article 96 of the *CRD*]

- 19D.3.14 G
- (1) A *firm* should be able to demonstrate that its decisions are consistent with an assessment of its financial condition and future prospects. In particular, practices by which *remuneration* is paid for potential future revenues whose timing and likelihood remain uncertain should be evaluated carefully and the *governing body* or *remuneration committee* (or both) should work closely with the *firm's* risk function in evaluating the incentives created by its *remuneration* system.
  - (2) The *governing body* and any *remuneration committee* are responsible for ensuring that the *firm's* *remuneration* policy complies with the *dual-regulated firms Remuneration Code* and, where relevant, should take into account relevant guidance, such as that issued by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS) and the International Organization of Securities Commissions (IOSCO).
  - (3) Guidance on what the *supervisory function* might involve is set out in *SYSC* 4.3.3G (responsibility of senior personnel, in particular, the *supervisory function*).

#### Remuneration Principle 5: Control functions

19D.3.15 R A *firm* must ensure that *employees* engaged in control functions:

- (1) are independent from the business units they oversee;
- (2) have appropriate authority; and
- (3) are *remunerated*:
  - (a) adequately to attract qualified and experienced *employees*; and
  - (b) in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control.

[**Note:** article 92(2)(e) of *CRD* and Standard 2 of the *FSB Compensation Standards*]

19D.3.16 E (1) A *firm's* risk management and compliance functions should have

appropriate input into setting the *remuneration* policy for other business areas. The procedures for setting *remuneration* should allow risk and compliance functions to have significant input into the setting of individual *remuneration* awards where those functions have concerns about the behaviour of the individuals concerned or the riskiness of the business undertaken.

- (2) Contravention of (1) may be relied on as tending to establish contravention of the *rule* on *employees* engaged in control functions having appropriate authority (SYSC 19D.3.15R(2)).

19D.3.17 R A *firm* must ensure that the *remuneration* of the senior officers in risk management and compliance functions is directly overseen by the *remuneration committee* referred to in SYSC 19D.3.12R or, if such a committee has not been established, by the *governing body* in its *supervisory function*.

[**Note:** article 92(2)(f) of *CRD*]

19D.3.18 G (1) This Remuneration Principle is designed to manage the conflicts of interest which might arise if other business areas had undue influence over the *remuneration* of *employees* within control functions. Conflicts of interest can easily arise when *employees* are involved in the determination of *remuneration* for their own business area. Where these could arise, they need to be managed by having in place independent roles for control functions (including, notably, risk management and compliance) and human resources. It is good practice to seek input from a *firm's* human resources function when setting *remuneration* for other business areas.

(2) The need to avoid undue influence is particularly important where *employees* from the control functions are embedded in other business areas. This Remuneration Principle does not prevent the views of other business areas being sought as an appropriate part of the assessment process.

(3) The *FCA* would generally expect the ratio of the potential variable component of *remuneration* to the fixed component of *remuneration* to be significantly lower for *employees* in risk management and compliance functions than for *employees* in other business areas whose potential bonus is a significant proportion of their *remuneration*. *Firms* should nevertheless ensure that the total *remuneration* package offered to those *employees* is sufficient to attract and retain staff with the skills, knowledge and expertise to discharge those functions. The requirement that the method of determining the *remuneration* of *relevant persons* involved in the compliance function must not compromise their objectivity or be likely to do so also applies (see SYSC 6.1.4R(4)).

Remuneration Principle 6: Remuneration and capital

19D.3.19 R A *firm* must ensure that total variable *remuneration* does not limit the *firm's* ability to strengthen its capital base.

[**Note:** article 94(1)(c) of the *CRD* and Standard 3 of the *FSB Compensation Standards*]

19D.3.20 G A *firm* should have variable *remuneration* arrangements that are sufficiently flexible to allow it to direct the necessary resources towards capital building.

#### Remuneration Principle 7: Exceptional government intervention

19D.3.21 R A *firm* that benefits from exceptional government intervention must ensure that:

- (1) variable *remuneration* is strictly limited as a percentage of net revenues when it is inconsistent with the maintenance of a sound capital base and timely exit from government support;
- (2) it restructures *remuneration* in a manner aligned with sound risk management and long-term growth, including (when appropriate) establishing limits to the *remuneration* of members of its *management body*; and
- (3) no variable or discretionary *remuneration* of any kind is paid to members of its *management body* unless this is justified.

[**Note:** article 93 of the *CRD* and Standard 10 of the *FSB Compensation Standards*]

19D.3.22 G The *FCA* would normally expect it to be appropriate for the ban on paying variable *remuneration* to members of the *management body* of a *firm* that benefits from exceptional government intervention to apply only to members of the *management body* who were in office at the time that the intervention was required.

#### Remuneration Principle 8: Profit-based measurement and risk adjustment

- 19D.3.23 R
- (1) A *firm* must ensure that any measurement of performance used to calculate variable *remuneration* components or pools of variable *remuneration* components:
    - (a) includes adjustments for all types of current and future risks and takes into account the cost and quantity of the capital and the liquidity required; and
    - (b) takes into account the need for consistency with the timing and likelihood of the *firm* receiving potential future revenues incorporated into current earnings.
  - (2) A *firm* must ensure that the allocation of variable *remuneration*



components within the *firm* also takes into account all types of current and future risks.

[**Note:** article 94(1)(j), (k) of the *CRD* and Standard 4 of the *FSB Compensation Standards*]

- 19D.3.24 G (1) This Remuneration Principle stresses the importance of risk adjustment in measuring performance, and the importance within that process of applying judgment and common sense. The *FCA* expects that a *firm* will apply qualitative judgements and common sense in the final decision about the performance-related components of variable *remuneration* pools.
- (2) A number of risk-adjustment techniques and measures are available, and a *firm* should choose those most appropriate to its circumstances.
- (3) We consider good practice in this area to be represented by those *firms* who provide a quantitative reference or starting point that explicitly includes risk-adjusted metrics, before the application of more discretionary factors. Common measures include those based on economic profit or economic capital. Whichever technique is chosen, the full range of future risks should be covered.
- (4) The *FCA* expects a *firm* to be able to provide it with details of all adjustments that the *firm* has made whether through application of formulae or the exercise of discretion. This will enable the *FCA* to ensure that the *firm's* risk adjustment framework is sufficiently robust. Where discretion has been applied, the *firm* should be able to provide a clear explanation for, and quantification of such adjustments.
- (5) A *firm* should ask the risk management function to validate and assess risk-adjustment techniques, and to attend a meeting of the *governing body* or *remuneration committee* for this purpose.
- 19D.3.25 R A *firm* must have a clear and verifiable mechanism for measuring performance, with risk adjustment applied thereafter in a clear and transparent manner.
- 19D.3.26 G A *firm* may apply discretionary factors to the extent that is appropriate and consistent with the overall aims of the risk adjustment exercise. Where such further adjustments have been made, *firms* should provide clear quantification and explanation to ensure their risk adjustment frameworks are sufficiently transparent.
- 19D.3.27 R A *firm* must base assessments of financial performance used to calculate variable *remuneration* components or pools of variable *remuneration* components principally on profits.
- 19D.3.28 G (1) Performance measures based primarily on revenues or turnover are

unlikely to pay sufficient regard to the quality of business undertaken or services provided. Profits are a better measure provided they are adjusted for risk, including future risks not adequately captured by accounting profits.

- (2) Management accounts should provide profit data at such levels within the *firm's* structure to enable it to see as accurate a picture of contributions of relevant staff to a *firm's* performance as is reasonably practicable.

- 19D.3.29 R
- (1) A *firm's* risk-adjustment approach must reflect both ex-ante adjustment (which adjusts remuneration for intrinsic risks that are inherent in its business activities) and ex-post adjustment (which adjusts remuneration for crystallisation of specific risks events).
  - (2) A *firm* must ensure that its total variable *remuneration* is generally considerably contracted where subdued or negative financial performance of the *firm* occurs, taking into account both current *remuneration* and reductions in payouts of amounts previously earned, including through malus or clawback arrangements.

[**Note:** article 94(1)(n) of *CRD* and Standard 5 of the *FSB Compensation Standards*]

- 19D.3.30 G
- (1) Aligning variable awards to sustainable financial performance requires *firms* to make appropriate ex-ante adjustments to take account of the potential for future unexpected losses. Performance measures commonly used (such as earnings per *share* (EPS), total shareholder return (TSR) and return on equity (RoE)) are not suitably adjusted for longer-term risk factors and have a tendency to incentive highly leveraged activities.
  - (2) Long-term incentive plans should be treated as pools of variable *remuneration*. *Firms* that have long-term incentive plans should ensure that the structure of the award is compliant with the *dual-regulated firms Remuneration Code's* deferral and vesting requirements and that performance conditions required for vesting are appropriate. The valuation of the award should be based on its value when the award is granted, and determined using an appropriate technique.
  - (3) *Firms* should demonstrate that both the ex-ante intrinsic risks and the ex-post crystallisation of risk event have been considered as part of their risk-adjustment approach.

[**Note:** In addition to the *guidance* in this section on the Remuneration Principle 8 (Profit-based measurement and risk adjustment), the *FSA* gave guidance on the application of the requirements on risk adjustments. This *guidance* is available on the *FCA* website at <https://www.fca.org.uk/firms/being-regulated/remuneration-codes.>]

## Remuneration Principle 9: Pension policy

- 19D.3.31 R A *firm* must ensure that:
- (1) its pension policy is in line with its business strategy, objectives, values and long-term interests;
  - (2) when an *employee* leaves the *firm* before retirement, any *discretionary pension benefits* are held by the *firm* for a period of five years in the form of instruments referred to in SYSC 19D.3.56R(1); and
  - (3) when an *employee* reaches retirement, *discretionary pension benefits* are paid to the *employee* in the form of instruments referred to in SYSC 19D.3.56R(1) and subject to a five-year retention period.

[**Note:** article 94(1)(o) of the *CRD*]

## Remuneration Principle 10: Personal investment strategies

- 19D.3.32 R
- (1) A *firm* must ensure that its *employees* undertake not to use personal hedging strategies to undermine the risk alignment effects embedded in their *remuneration* arrangements.
  - (2) A *firm* must ensure that its *employees* do not use *remuneration-* or *liability-related contracts of insurance* to undermine the risk alignment effects embedded in their *remuneration* arrangements.
  - (3) A *firm* must maintain effective arrangements designed to ensure that *employees* comply with their undertaking.

[**Note:** article 94(1)(p) of the *CRD* and Standard 14 of the *FSB Compensation Standards*]

- 19D.3.33 G In the *FCA's* view, circumstances in which a *person* will be using a personal hedging strategy include (and are not limited to) entering into an arrangement with a third party under which the third party will make payments, directly or indirectly, to that *person* that are linked to or commensurate with the amounts by which the *person's remuneration* is subject to reductions.

## Remuneration Principle 11: Non-compliance with the dual-regulated firms Remuneration Code

- 19D.3.34 R A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate non-compliance with obligations arising from the *Remuneration Code*, the *EU CRR* or the *CRD*.

[**Note:** article 94(1)(q) of the *CRD*]

## Remuneration Principle 12: Remuneration structures - introduction

- 19D.3.35 G (1) Taking account of the *dual-regulated firms remuneration principles proportionality rule*, the FCA does not generally consider it necessary for a *firm* to apply the *rules* in (2) where, in relation to an individual (X), both the following conditions are satisfied:
- (a) Condition 1 is that X's variable *remuneration* is no more than 33% of total *remuneration*; and
  - (b) Condition 2 is that X's total *remuneration* is no more than £500,000.
- (2) The *rules* referred to in (1) are those relating to:
- (a) guaranteed variable *remuneration* (SYSC 19D.3.44R);
  - (b) retained *shares* or other instruments (SYSC 19D.3.56R);
  - (c) deferral (SYSC 19D.3.59R); and
  - (d) performance adjustment (SYSC 19D.3.61R).

**[Note:** The FSA also gave *guidance* on the application of certain *rules* on *remuneration* structures about individuals who are *dual-regulated firms Remuneration Code staff* for only part of a given performance year. This guidance is available on the FCA website at <https://www.fca.org.uk/firms/being-regulated/remuneration-codes>.

## Remuneration Principle 12(a): Remuneration structures - general requirement

- 19D.3.36 R A *firm* must ensure that the structure of an *employee's remuneration* is consistent with, and promotes, effective risk management.
- 19D.3.37 R A *firm* must ensure that the *remuneration* policy makes a clear distinction between criteria for setting:
- (1) basic fixed *remuneration* that primarily reflects an *employee's* professional experience and organisational responsibility, as set out in the *employee's* job description and terms of *employment*; and
  - (2) variable *remuneration* that reflects performance in excess of that required to fulfil the *employee's* job description and terms of *employment* and that is subject to performance adjustment in accordance with the *dual-regulated firms Remuneration Code*.

**[Note:** article 92(2)(g) of the *CRD*]

- 19D.3.38 R A *firm* must not award variable *remuneration* to a *non-executive*

*director* acting as such.

Remuneration Principle 12(b): Remuneration structures - assessment of performance

- 19D.3.39 R (1) A *firm* must ensure that where *remuneration* is performance-related:
- (a) the total amount of *remuneration* is based on a combination of the assessment of the performance of:
    - (i) the individual;
    - (ii) the business unit concerned; and
    - (iii) the overall results of the *firm*; and
  - (b) when assessing individual performance, financial as well as non-financial criteria are taken into account.

[**Note:** article 94(1)(a) of the *CRD* and Standard 6 of the *FSB Compensation Standards*]

- 19D.3.40 G The non-financial criteria in SYSC 19D.3.39R(1)(b) should include the extent of the *employee's* adherence to effective risk management, and compliance with the *regulatory system* and with relevant overseas regulatory requirements.
- 19D.3.41 G Poor performance assessed by non-financial metrics, such as poor risk management or other behaviours contrary to *firm* values, can pose significant risks for a *firm* and should, as appropriate, override metrics of financial performance.
- 19D.3.42 R A *firm* must clearly explain the performance assessment process in SYSC 19D.3.39R to relevant *employees*.
- 19D.3.43 R A *firm* must ensure that the assessment of performance is set in a multi-year framework in order to ensure that:
- (1) the assessment process is based on longer-term performance; and
  - (2) the actual payment of performance-based components of *remuneration* is spread over a period which takes account of the underlying business cycle of the *firm* and its business risks.

[**Note:** article 94(1)(b) of *CRD*]

Remuneration Principle 12(c): Remuneration structures - guaranteed variable remuneration, buy-outs

- 19D.3.44 R (1) A *firm* must ensure that guaranteed variable *remuneration* is not part of prospective *remuneration* plans.

- (2) A *firm* must not award, pay or provide guaranteed variable *remuneration* unless:
- (a) it is exceptional;
  - (b) it occurs in the context of hiring new *dual-regulated firms Remuneration Code staff*;
  - (c) the *firm* has a sound and strong capital base; and
  - (d) it is limited to the first year of service.

[**Note:** article 94(1)(d) and (e) of the *CRD* and Standard 11 of the *FSB Compensation Standards*]

- 19D.3.45 R A *firm* must ensure that *remuneration* packages relating to compensation for, or buy out from, an *employee's* contracts in previous *employment* align with its long-term interests including appropriate retention, deferral and performance and clawback arrangements.

[**Note:** article 94(1)(i) of *CRD*]

- 19D.3.46 G (1) Guaranteed variable *remuneration* should be subject to the same requirements applicable to variable *remuneration* awarded by the *firm* including deferral, malus and clawback.
- (2) The *FCA* expects that guaranteed variable awards and retention awards should not be common practice for *dual-regulated firms Remuneration Code staff* and should be limited to rare, infrequent occurrences. The *FCA* expects a *firm* to provide prior notification to the *FCA* of any such proposed awards.

- 19D.3.47 G Retention awards should form part of variable *remuneration* for the purpose of SYSC 19D.3.48R.

Remuneration Principle 12(d): Remuneration structures - ratios between fixed and variable components of total remuneration

- 19D.3.48 R A *firm* must set an appropriate ratio between the fixed and variable components of total *remuneration* and ensure that:
- (1) fixed and variable components of total *remuneration* are appropriately balanced;
  - (2) the level of the fixed component represents a sufficiently high proportion of the total *remuneration* to allow the operation of a fully flexible policy on variable *remuneration* components, including the possibility to pay no variable *remuneration* component; and
  - (3) subject to SYSC 19D.3.49R, the level of the variable component of total *remuneration* must not exceed 100% of the fixed component

of total *remuneration* for each *dual-regulated firms Remuneration Code staff*.

[**Note:** article 94(1)(f) and 94(1)(g)(i) of the *CRD*]

- 19D.3.49 R A *firm* may set a higher maximum level of the ratio between the fixed and variable components of total *remuneration* provided:
- (1) the overall level of the variable component does not exceed 200% of the fixed component of the total *remuneration* for each *dual-regulated firms Remuneration Code staff*; and
  - (2) is approved by the shareholders or owners or members of the *firm* in accordance with SYSC 19D.3.50R.

[Note: article 94(1)(g)(ii) of *CRD*]

- 19D.3.50 R A *firm* must ensure that any approval by its shareholders or owners or members, for the purposes of SYSC 19D.3.49R, is carried out in accordance with the following procedure:
- (1) the *firm* must give reasonable notice to all its shareholders or owners or members of its intention to seek approval of the proposed higher ratio;
  - (2) the *firm* must make a detailed recommendation to all its shareholders or owners or members that includes:
    - (a) the reasons for, and the scope of, the approval sought;
    - (b) the number of staff affected and their functions; and
    - (c) the expected impact on the requirement to maintain a sound capital base;
  - (3) the *firm* must:
    - (a) without delay, inform the *FCA* of the recommendation to its shareholders or owners or members, including the proposed higher ratio and the reasons therefor; and
    - (b) demonstrate to the *FCA* that the proposed higher ratio does not conflict with its obligations under the *CRD* and the *EU CRR*, having particular regard to the *firm's own funds* obligations;
  - (4) the *firm* must ensure that *employees* who have an interest in the proposed higher ratio are not allowed to exercise, directly or indirectly, any voting rights they may have as shareholders or owners or members of the *firm* in respect of the approval sought; and

- (5) the higher ratio is approved by a majority of:
- (a) at least 66% of the shares or equivalent ownership rights represented, if at least 50% of the shares or equivalent ownership rights in the *firm* are represented; or
  - (b) at least 75% of the shares or equivalent ownership rights represented, if less than 50% of the shares or equivalent ownership rights in the *firm* are represented.

[**Note:** article 94(1)(g)(ii) of the *CRD*]

19D.3.51 R A *firm* must notify the *FCA* without delay of the decisions taken by its shareholders or members or owners including any approved higher maximum ratio.

[**Note:** article 94(1)(g)(ii) of the *CRD*]

19D.3.52 R A *firm* may apply a discount rate to a maximum of 25% of an *employee's* total variable *remuneration* provided it is paid in instruments that are deferred for a period of not less than five years.

[**Note:** article 94(1)(g)(iii) of the *CRD*]

19D.3.53 R In applying the discount rate in *SYSC* 19D.3.52R, a *firm* must apply the *EBA* Guidelines on the applicable notional discount rate for variable remuneration published on 27 March 2014.

[**Note:** the *EBA* Guidelines on the applicable notional discount rate for variable remuneration can be found at:

<http://www.eba.europa.eu/documents/10180/643987/EBA-GL-2014-01+%28Final+Guidelines+on+the+discount+rate+for+remuneration%29.pdf/e8b3b3f6-6258-439d-a2d9-633e6e5de5e9>]

Remuneration Principle 12(e): Remuneration structures - payments related to early termination

19D.3.54 R A *firm* must ensure that payments relating to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure or misconduct.

[**Note:** article 94(1)(h) of the *CRD* and Standard 12 of the *FSB Compensation Standards*]

19D.3.55 G A *firm* should review existing contractual payments related to termination of *employment* with a view to ensuring that these are payable only where there is a clear basis for concluding that they are consistent with *SYSC* 19D.2.1R, which states that remuneration policies must be consistent with, and promote, sound and effective risk management.

[**Note:** Standard 12 of the *FSB Compensation Standards*]



Remuneration Principle 12(f): Remuneration structures - retained shares or other instruments

- 19D.3.56 R (1) A *firm* must ensure that a substantial portion, which is at least 50%, of any variable *remuneration* consists of an appropriate balance of:
- (a) *shares* or equivalent ownership interests, subject to the legal structure of the *firm* concerned, or *share*-linked instruments or equivalent non-cash instruments in the case of a non-listed *firm*; and
  - (b) where possible, other instruments that in each case adequately reflect the credit quality of the *firm* as a going concern and are appropriate for use as variable remuneration, such as:
    - (i) those which are eligible as *additional tier 1 instruments* or *tier 2 instruments*; or
    - (ii) those that can be fully converted to *common equity tier 1 instruments* or written down;

(where the expressions in italics are defined, with the conditions for eligibility, in the Definition of the Capital part of the *PRA* Rulebook).
- (2) The instruments in (1) must be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the *firm*.
- (3) This *rule* applies to both the portion of the variable *remuneration* component deferred in accordance with SYSC 19D.3.59R and the portion not deferred.

[**Note:** article 94(1)(l) of the *CRD* and Standard 8 of the *FSB Compensation Standards*]

- 19D.3.57 G The *FCA* would normally consider a period of retention of six months to be sufficient, provided that other risk management techniques within the *firm* are operating to secure sound and effective risk management.
- 19D.3.58 G (1) The Committee of European Banking Supervisors has given guidance on the interpretation of the *CRD* provision transposed by SYSC 19D.3.56R(3). Its guidelines provide that this requirement means that the 50% minimum threshold for instruments must be applied equally to the non-deferred and the deferred components; i.e., *firms* must apply the same chosen ratio between instruments and cash for their total variable *remuneration* to both the upfront and deferred components. (Guidelines on Remuneration Policies and Practices, 10 December 2010, paragraph 133,

<https://www.eba.europa.eu/documents/10180/106961/Guidelines.pdf>.)

- (2) This simplified example illustrates the operation of (1). The variable remuneration of a material risk taker (X) is 100 and, under SYSC 19D.3.59R(2), X is required to defer 60%. X's upfront component is 40 and X's deferred component is 60. At least 20 of X's upfront component, and at least 30 of X's deferred component, must be in instruments referred to in SYSC 19D.3.56R(1).

Remuneration Principle 12(g): Remuneration structures - deferral

- 19D.3.59 R (1) A *firm* must not award, pay or provide a variable *remuneration* component unless a substantial portion of it, which is at least 40%, is deferred over a period which is not less than:
- (a) for *dual-regulated firms Remuneration Code staff* who do not perform a *PRA-designated senior management function*, three to five years, with no vesting taking place until one year after the award, and vesting no faster than on a pro-rata basis.
  - (b) for *dual-regulated firms Remuneration Code staff* who perform a *PRA-designated senior management function*, seven years, with no vesting taking place until three years after the award, and vesting no faster than on a pro-rata basis.
- (2) In the case of a variable *remuneration* component:
- (a) of £500,000 or more, or
  - (b) payable to a *director* of a *firm* that is significant in terms of its size, internal organisation and the nature, scope and complexity of its activities;
- at least 60% of the amount must be deferred on the basis set out in SYSC 19D.3.59R(1).
- (3) Subject to (1), the length of the deferral period must be established in accordance with the business cycle, the nature of the business, its risks and the activities of the *employee* in question.

[**Note:** article 94(1)(m) of the *CRD* and Standards 6 and 7 of the *FSB Compensation Standards*]

- 19D.3.60 G (1) Deferred *remuneration* paid in:
- (a) *shares* or *share-linked instruments* should be made under a scheme which meets appropriate criteria, including risk adjustment of the performance measure used to determine

the initial allocation of *shares*;

- (b) cash should also be subject to performance criteria.
- (2) The *FCA* would generally expect a *firm* to have a *firm*-wide policy (and *group*-wide policy, where appropriate) on deferral. The proportion deferred should generally rise with the ratio of variable *remuneration* to fixed *remuneration* and with the amount of variable *remuneration*. While any variable *remuneration* component of £500,000 or more paid to *dual-regulated firms Remuneration Code staff* must be subject to 60% deferral, *firms* should also consider whether lesser amounts should be considered to be 'particularly high' taking account, for example, of whether there are significant differences within *dual-regulated firms Remuneration Code staff* in the levels of variable *remuneration* paid.

Remuneration Principle 12(h): Remuneration structures - performance adjustment (affordability, malus, clawback)

19D.3.61 R A *firm* must ensure that:

- (1) any variable *remuneration*, including a deferred portion, is paid or vests only if it is sustainable according to the financial situation of the *firm* as a whole, and justified on the basis of the performance of the *firm*, the business unit and the individual concerned;
- (2) any variable *remuneration* is subject to clawback, such that it is only awarded if an amount corresponding to it can be recovered from the individual by the *firm* if the recovery is justified on the basis of the circumstances described in SYSC 19D.3.62R(2) and SYSC 19D.3.64R;
- (3) any variable *remuneration* is subject to clawback for a period of at least seven years from the date on which the variable *remuneration* is awarded; and
- (4) for *dual-regulated firms Remuneration Code staff* who perform a *PRA-designated senior management function*, it can, by notice to the *employee* to be given no later than seven years after the variable *remuneration* was awarded, extend the period during which variable *remuneration* is subject to clawback to at least ten years from the date on which the variable *remuneration* is awarded, where:
  - (a) the *firm* has commenced an investigation into facts or events which it considers could potentially lead to the application of clawback were it not for the expiry of the clawback period; or
  - (b) the *firm* has been notified by a regulatory authority

(including an overseas regulatory authority) that an investigation has been commenced into facts or events which the *firm* considers could potentially lead to the application of clawback by the *firm* were it not for the expiry of the clawback period; and

- (5) it considers on an ongoing basis whether to use the power in (4).

[**Note:** article 94(1)(n) of the *CRD* and Standards 6 and 9 of the *FSB Compensation Standards*]

19D.3.62 R A *firm* must:

- (1) set specific criteria for the application of malus and clawback; and
- (2) ensure that the criteria for the application of malus and clawback in particular cover situations where the *employee*:
  - (a) participated in, or was responsible for, conduct which resulted in significant losses to the *firm*; or
  - (b) failed to meet appropriate standards of fitness and propriety.

[**Note:** article 94(1)(n) of the *CRD* and Standards 6 and 9 of the *FSB Compensation Standards*]

[**Note:** The *FSA* also gave *guidance* on the application of the requirements on risk adjustments. This *guidance* is available on the *FCA* website at <https://www.fca.org.uk/firms/being-regulated/remuneration-codes>.]

- 19D.3.63 E
- (1) A *firm* should reduce unvested deferred variable remuneration when, as a minimum:
    - (a) there is reasonable evidence of *employee* misbehaviour or material error; or
    - (b) the *firm* or the relevant business unit suffers a material downturn in its financial performance; or
    - (c) the *firm* or the relevant business unit suffers a material failure of risk management.
  - (2) For performance adjustment purposes, awards of deferred variable remuneration made in shares or other non-cash instruments should provide the ability for the *firm* to reduce the number of shares or other non-cash instruments.
  - (3) Contravention of any of (1) or (2) may be relied on as tending to establish contravention of *SYSC* 19D.3.61R(1) on performance adjustment.

- 19D.3.64 R (1) A *firm* must make all reasonable efforts to recover an appropriate amount corresponding to some or all vested variable *remuneration* where either of the following circumstances arise during the period in which clawback applies (including any part of such period occurring after the relevant *employment* has ceased):
- (a) there is reasonable evidence of *employee* misbehaviour or material error; or
  - (b) the *firm* or the relevant business unit suffers a material failure of risk management.
- (2) A *firm* must take into account all relevant factors (including, where the circumstances described in (1)(b) arise, the proximity of the *employee* to the failure of risk-management in question and the *employee's* level of responsibility) in deciding whether, and to what extent it is reasonable, to seek recovery of any or all of their vested variable *remuneration*.

- 19D.3.65 G The *governing body* (or, where appropriate, the *remuneration committee*) should approve performance adjustment policies, including the triggers under which adjustment would take place. The *FCA* may ask *firms* to provide a copy of their policies and expects *firms* to make adequate records of material decisions to operate the adjustments.

#### Effect of breaches of the Remuneration Principles

- 19D.3.66 R SYSC 19D Annex 1 makes provision about voiding and recovery.
- 19D.3.67 R (1) Subject to (2) to (7), the *rules* in SYSC 19D Annex 1.1R to 1.6R apply in relation to the prohibitions on *dual-regulated firms Remuneration Code staff* being *remunerated* in the ways specified in:
- (a) SYSC 19D.3.44R (guaranteed variable *remuneration*);
  - (b) SYSC 19D.3.59R (non-deferred variable *remuneration*);
  - (c) SYSC 19D.3.61R(2) (performance adjustment – clawback); and
  - (d) SYSC 19D Annex 1.10R (replacing payments recovered or property transferred).
- (2) Paragraph (1) applies only to those prohibitions as they apply in relation to a *firm* that satisfies either Condition 1 or Condition 2 as set out in (3) and (4).
- (3) Condition 1 is that the *firm* is a *UK bank*, a *building society*, or a *UK designated investment firm*, that has relevant total assets exceeding £50 billion.

- (4) Condition 2 is that the *firm*:
- (a) is either a *full credit institution* or a *UK designated investment firm*; and
  - (b) is part of a *group* containing a *firm* that has relevant total assets exceeding £50 billion and that is a *bank, a building society or a UK designated investment firm*.
- (5) For the purposes of this *rule*, ‘relevant total assets’ means the arithmetic mean of the *firm's* total assets as set out in its balance sheet on its last three *accounting reference dates*.
- (6) This *rule* does not apply in relation to the prohibition on *dual-regulated firms Remuneration Code staff* being *remunerated* in the way specified in SYSC 19D.3.44R (guaranteed variable *remuneration*) if both the conditions in paragraphs (2) and (3) of that *rule* are met.
- (7) This *rule* does not apply in relation to *dual-regulated firms Remuneration Code staff (X)* in respect of whom both the following conditions are satisfied:
- (a) Condition 1 is that X’s variable *remuneration* is no more than 33% of total *remuneration*; and
  - (b) Condition 2 is that X’s total *remuneration* is no more than £500,000.
- (8) In relation to (7):
- (a) references to *remuneration* are to *remuneration* awarded or paid in respect of the relevant performance year;
  - (b) the amount of any *remuneration* is:
    - (i) if it is money, its amount when awarded;
    - (ii) otherwise, whichever of the following is greatest:
      - (A) its value to the recipient when awarded;
      - (B) its market value when awarded; and
      - (C) the cost of providing it;
  - (c) where *remuneration* is, when awarded, subject to any condition, restriction or other similar provision which causes the amount of the *remuneration* to be less than it otherwise would be, that condition, restriction or provision is to be ignored in arriving at its value; and

- (d) it is to be assumed that the member of *dual-regulated firms Remuneration Code staff* will remain so for the duration of the relevant performance year.
- 19D.3.68 G (1) Sections 137H and 137I of the *Act* enable the *FCA* to make *rules* that render void any provision of an agreement that contravenes specified prohibitions in the *dual-regulated firms Remuneration Code*, and that provide for the recovery of any payment made, or other property transferred, in pursuance of such a provision.
- (2) *SYSC 19D.3.66R* and *SYSC 19D.3.67R* (together with *SYSC 19D Annex 1*) are:
- (a) *rules* referred to in (1) that render void provisions of an agreement that contravene the specified prohibitions on guaranteed variable *remuneration*, non-deferred variable *remuneration* and replacing payments recovered or property transferred; and
- (2) the exception to the general position set out in section 138E(2) of the *Act* that a contravention of a *rule* does not make any transaction void or unenforceable.

**19D  
Annex 1**      **Detailed provisions on voiding and recovery (SYSC 19D.3.66R and SYSC 19D.3.67R)**

<b>Rendering contravening provisions of agreements void</b>		
1	R	Any provision of an agreement that contravenes a prohibition on <i>persons</i> being <i>remunerated</i> in a way specified in a <i>rule</i> to which this <i>rule</i> applies (a ‘contravening provision’) is void.
2	R	A contravening provision does not cease to be void because:
		(1) the <i>firm</i> concerned ceases to satisfy any of the conditions set out in <i>SYSC 19D.3.67R</i> (3) to (4); or
		(2) the member of <i>dual-regulated firms Remuneration Code staff</i> concerned starts to satisfy both of the conditions set out in <i>SYSC 19D.3.67R</i> (7)(a) and (b).
3	R	A contravening provision that, at the time a <i>rule</i> to which this <i>rule</i> applies was first made (including any previous <i>rules</i> in the <i>FCA Handbook</i> ), is contained in an agreement made before that time is not rendered void by <i>SYSC 19D Annex 1.1R</i> , unless it is subsequently amended so as to contravene such a <i>rule</i> .
4	G	The effect of <i>SYSC 19D Annex 1.3R</i> , in accordance with sections 137H and 137I of the <i>Act</i> , is to prevent contravening provisions

		being rendered void retrospectively. However, contravening provisions may be rendered void if they are contained in an agreement made after the <i>rule</i> containing the prohibition is made by the <i>FCA</i> but before the <i>rule</i> comes into effect.	
5	R	(1)	A pre-existing provision is not rendered void by SYSC 19D Annex 1.1R.
		(2)	In this Annex, a pre-existing provision is any provision of an agreement that would (but for this <i>rule</i> ) be rendered void by SYSC 19D Annex 1.1R that was agreed at a time when either:
		(a)	the <i>firm</i> concerned did not satisfy any of the conditions set out in SYSC 19D.3.67R(3) to (4); or
		(b)	the member of <i>dual-regulated firms Remuneration Code staff</i> concerned satisfied both of the conditions set out in SYSC 19D.3.67R(7)(a) and (b).
		(3)	But an amendment to, or in relation to, a pre-existing provision is not to be treated as a pre-existing provision where the amendment is agreed at a time when both:
		(a)	the <i>firm</i> concerned satisfies at least one of the conditions set out in SYSC 19D.3.67R(3) to (4); and
		(b)	the member of <i>dual-regulated firms Remuneration Code staff</i> concerned does not satisfy both of the conditions set out in SYSC 19D.3.67R(7)(a) and (b).
6	R	For the purposes of this chapter, it is immaterial whether the law which (apart from this annex) governs a contravening provision is the law of the <i>United Kingdom</i> , or of a part of the <i>United Kingdom</i> .	
<b>Recovery of payments made or property transferred pursuant to a void contravening provision</b>			
7	R	In relation to any payment made or other property transferred in pursuance of a contravening provision other than a pre-existing provision, a <i>firm</i> must take reasonable steps to:	
		(1)	recover any such payment made or other property transferred by the <i>firm</i> ; and
		(2)	ensure that any other <i>person</i> (P) recovers any such payment made or other property transferred by that <i>person</i> .
8	R	SYSC 19D Annex 1.7R continues to apply in one or both of the following cases:	
		(1)	the <i>firm</i> concerned ceases to satisfy any of the conditions set



			out in SYSC 19D.2.67R(3) to (4);
		(2)	the member of <i>dual-regulated firms Remuneration Code staff</i> concerned starts to satisfy both of the conditions set out in SYSC 19D.2.67R(7)(a) and (b).
9	G		The <i>rule</i> in SYSC 19D Annex 1.7R(2) would, for example, apply in the context of a secondment. Where a <i>group</i> member secondes an individual to a <i>firm</i> and continues to be responsible for the individual's <i>remuneration</i> in respect of services provided to the <i>firm</i> , the <i>firm</i> would need to take reasonable steps to ensure that the <i>group</i> member recovers from the secondee any <i>remuneration</i> paid in pursuance of a contravening provision.
<b>Replacing payments recovered or property transferred</b>			
10	R	(1)	A <i>firm</i> must not award, pay or provide variable <i>remuneration</i> to a <i>person</i> who has received <i>remuneration</i> in pursuance of a contravening provision other than a pre-existing provision (the ' <i>contravening remuneration</i> ') unless the <i>firm</i> has obtained a legal opinion stating that the award, payment or provision of the <i>remuneration</i> complies with the <i>dual-regulated firms Remuneration Code</i> .
		(2)	This <i>rule</i> applies only to variable <i>remuneration</i> relating to a performance year to which the contravening <i>remuneration</i> related.
		(3)	The legal opinion in (1) must be properly reasoned and be provided by an appropriately qualified independent individual.
		(4)	Paragraph (1) continues to apply in one or both of the following cases:
		(a)	the <i>firm</i> concerned ceases to satisfy any of the conditions set out in SYSC 19D.3.67R(3) to (4);
		(b)	the member of <i>dual-regulated firms Remuneration Code staff</i> concerned starts to satisfy both of the conditions set out in SYSC 19D.3.67R(7)(a) and (b).
<b>Notification to the FCA</b>			
11	G		The <i>FCA</i> considers any breach of a <i>rule</i> to which this annex applies to be a significant breach which should be notified to the <i>FCA</i> in accordance with SUP 15.3.11R (Breaches of rules and other requirements in or under the Act). Such a notification should include information on the steps which a <i>firm</i> or other <i>person</i> has taken or intends to take to recover payments or property in accordance with SYSC 19D Annex 1.7R.

Amend the following as shown.

## 21.1 Risk control: guidance on governance arrangements

...

Chief Risk Officer

21.1.2 G (1) A Chief Risk Officer should:

...

- (j) provide risk-focused advice and information into the setting and individual application of the *firm's remuneration* policy (Where the *Remuneration Code* applies, see in particular SYSC 19A.3.15E. Where the BIPRU Remuneration Code applies, see in particular SYSC 19C.3.15E. Where the *dual-regulated firms Remuneration Code* applies, see in particular SYSC 19D.2.16E. Where the remuneration part of the PRA Rulebook applies, see the PRA's Supervisory Statement on Remuneration).

**[Note:** The PRA's Supervisory Statement on remuneration is available on the PRA website at <http://www.bankofengland.co.uk/pr/Pages/default.aspx.>]

...

## Sch 5 Right of action for damages

...

Sch 5.4 G

Chapter/ Appendix	Section/ Annex	Paragraph	Right of action under section 138D		
			For private person?	Removed?	For other person?
...					
SYSC 11 to SYSC 19A <sub>2</sub> and SYSC 19D			No	Yes SYSC 1.4.2R	No

## Annex C

## Amendments to the Supervision manual (SUP)

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

## 13A Annex 1G Application of the Handbook to Incoming EEA firms

...

<b>(1) Module of Handbook</b>	<b>(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom</b>	<b>(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom</b>
...		
SYSC	... SYSC 19A, <del>and 19B</del> , <u>19C and 19D</u> do not apply.	SYSC 19A, <u>19C and 19D</u> <del>does</del> <u>do</u> not apply.
...		

...