Chapter 10A

FCA Approved Persons
10A.3 Provisions related to the Act

10A.3.1 A function is an FCA controlled function only to the extent that it is performed under an arrangement entered into by:

(1) a firm; or

(2) a contractor of the firm;

in relation to the carrying on by the firm of a regulated activity.

10A.3.2 Sections 59(1) and (2) of the Act provide that approval is necessary in respect of an FCA controlled function which is performed under an arrangement entered into by a firm, or its contractor (typically an appointed representative), in relation to a regulated activity.

10A.3.3 Arrangement is defined in section 59(10) of the Act as any kind of arrangement for the performance of a function which is entered into by a firm or any of its contractors with another person and includes the appointment of a person to an office, his becoming a partner, or his employment (whether under a contract of service or otherwise). For the provisions in this chapter relating to outsourcing, see SUP 10A.13.5 G and SUP 10A.13.6 G.

10A.3.4 If, however, a firm is a member of a group, and the arrangements for the performance of an FCA controlled function of the firm are made by, for instance, the holding company, the person performing the function will only require approval if there is an arrangement (under section 59(1)) or a contract (under section 59(2)) between the firm and holding company permitting this. This need not be a written contract but could arise, for example, by conduct, custom and practice.

10A.3.5 The arrangement must be “in relation to” the carrying on of a regulated activity. Regulated activities are defined in the Glossary by reference to the Regulated Activities Order. This order prescribes the activities which are regulated activities for the purposes of the Act.