

## Chapter 10C

FCA senior managers regime  
for approved persons in  
SMCR firms

## 10C.8A EEA branch senior manager function (SMF21)

10C.8A.1 **R** This section applies to an *EEA SMCR firm*.

- 10C.8A.2 **R**
- (1) A *person* performs the *EEA branch senior manager function* in relation to the *branch* in the *United Kingdom* of an *EEA SMCR firm* if that *person* has significant responsibility for one or more significant business units of the *branch* that carry on any of the activities listed in (2).
  - (2) The activities listed in this paragraph are:
    - (a) *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*;
    - (b) processing confirmations, payments, settlements, insurance claims, client money and similar matters, in so far as this relates to *designated investment business*;
    - (c) the activity of *accepting deposits* from *banking customers* and activities substantially connected to that activity to the extent that it does not fall within (a) or (b), above; and
    - (d) activities that are subject to CASS.
  - (3) In considering whether a *person* performs the functions in (2), only activities carried on from the *branch* are relevant.
  - (4) Paragraph (2)(d) only applies in relation to the *regulated activities* of a *firm* that are not passported activities as defined in (5) and (6).

For the purposes of this *rule*, “passport activities” of an *EEA PTV firm* means *regulated activities* that meet the following conditions:

    - they are included in the *permission* of the *EEA SMCR firm* under the EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018; and
    - (b) the *firm* was entitled to carry them on in the *United Kingdom* immediately before *IP completion day* by virtue of section 31(1)(b) or (c) of the *Act* as it was in force immediately before *IP completion day*.
  - (6) For the purposes of this *rule*, “passport activities” of an *EEA SMCR firm* also mean *regulated activities* that were subject to an EEA right applicable to the category of *firm* into which the *EEA SMCR firm* falls and which the *firm* is entitled to carry on in its Home State. For these

		<p>purposes EEA right has the meaning that it did in Schedule 3 of the Act as it was in force immediately before <i>IP completion day</i> and Home State has the meaning that it did in the <i>Glossary</i> as it was in force immediately before <i>IP completion day</i>.</p>
10C.8A.3	G	<p>(1) The definition of the <i>EEA branch senior manager function</i> (SMF21) is similar to that of the significant management <i>FCA certification function</i> under ■ SYSC 27.8.4R. However, only the former is an <i>FCA-designated senior management function</i>.</p> <p>(2) The main differences are:</p> <p>(a) ■ SUP 10C.8A.2R(2) is not included in the significant management <i>FCA certification function</i>; and</p> <p>(b) the overriding requirements in ■ SUP 10C.3 (General material about the definition of controlled functions) do not apply to the significant management <i>FCA certification function</i>.</p>
10C.8A.4	G	<p>A person performing the <i>EEA branch senior manager function</i> could, for example, be:</p> <p>(1) the head of a significant business unit carrying on the activities in ■ SUP 10C.8A.2R(2); or</p> <p>(2) a member of a committee (that is, a person who, together with others, has authority to commit the <i>branch</i>) making decisions about those activities.</p>
		<p><b>EEA branch senior manager function (SMF21): Meaning of “significance”</b></p> <p>.....</p>
10C.8A.5	G	<p>When considering whether a business unit is significant for the purposes of ■ SUP 10C.8A.2R, the <i>firm</i> should take into account all relevant factors in the light of the <i>firm’s</i> current circumstances and its plans for the future, including:</p> <p>(1) the risk profile of that unit;</p> <p>(2) its use or commitment of the <i>firm’s</i> capital;</p> <p>(3) its contribution to the profit and loss account;</p> <p>(4) the number of <i>employees</i> or <i>approved persons</i> working in the business unit;</p> <p>(5) the number of customers; and</p> <p>(6) any other factor which makes the unit significant to the conduct of the <i>branch’s</i> affairs.</p>