

Chapter 10C

FCA senior managers regime
for approved persons in
SMCR firms



10C.9 Minimising overlap with the PRA approved persons regime

Application

10C.9.-1 G This section only applies to a *PRA-authorised person*.

Introduction

10C.9.1 G ■ SUP 10C.9 deals with how the FCA's senior managers regime for *SMCR firms* interacts with the *PRA's* one.

10C.9.2 G Both the *FCA* and the *PRA* may specify a function as a *designated senior management function* in relation to a *PRA-authorised person*.

10C.9.3 G If a *person's* job for a *firm* involves performing:

- an *FCA-designated senior management function*, the *firm* should apply to the *FCA* for approval;
- (2) a *PRA-designated senior management function*, the *firm* should apply to the *PRA* for approval;
- (3) both an *FCA-designated senior management function* and a *PRA-designated senior management function*, the *firm* should apply to both the *FCA* and the *PRA* for approval (the purpose of ■ SUP 10C.9 is to cut down the need for this sort of dual approval).

FCA controlled functions absorbed into PRA controlled functions

10C.9.4 G The *FCA* is under a duty, under section 59A of the Act (Specifying functions as controlled functions: supplementary), to exercise the power to specify any *senior management function* as an *FCA controlled function* in a way that it considers will minimise the likelihood that approvals need to be given by both the *FCA* and the *PRA* for the performance by a *person* of *senior management functions* in relation to the same *PRA-authorised person*.

10C.9.5 G The *FCA* and *PRA* have coordinated their *approved person* regimes to reduce the amount of overlap.

- 10C.9.6** G
- (1) ■ SUP 10C.9.8R applies when a *firm* is seeking approval from the *PRA* for a *candidate* to perform a *PRA controlled function* and the intention is that the *candidate* will also perform what would otherwise be an *FCA governing function* once the *PRA* gives its approval. ■ SUP 10C.9.8R works by disapplying that *FCA governing function*.
 - (2) Where (1) applies, the activities within that *FCA governing function* are included in the *PRA controlled function* for which the *person* has approval. Chapter Two of the part of the *PRA's rulebook* titled 'Senior Management Functions' deals with this. The following parts of the *PRA Rulebook* deal with this:
 - (a) Chapter 2 of the part of the *PRA Rulebook* titled 'Senior Management Functions';
 - (b) Chapter 2 of the part of the *PRA Rulebook* titled 'Insurance - Senior Management Functions';
 - (c) Chapter 2 of the part of the *PRA Rulebook* titled 'Large Non-Solvency II Firms – Senior Management Functions';
 - (d) Chapter 2 of the part of the *PRA Rulebook* titled 'Non-Solvency II Firms - Senior Management Functions';
 - (e) Chapter 6 of the part of the *PRA Rulebook* titled 'Insurance - Senior Managers Regime – Transitional Provisions'; and
 - (f) Chapter 6 of the part of the *PRA Rulebook* titled 'Large Non-Solvency II Firms – Senior Managers Regime – Transitional Provisions'.

- 10C.9.7** G
- (1) ■ SUP 10C.9.9G gives some examples of how ■ SUP 10C.9.8R works.
 - (2) The examples do not cover the *other overall responsibility function* because that function does not apply if the *person* holds any other *designated senior management function* for the same *firm*. See the table in ■ SUP 10C.7.3G for examples of how this works.

The main rule

- 10C.9.8** R
- A *person* (referred to as 'A' in this *rule*) is not performing an *FCA governing function* (referred to as the 'particular' *FCA governing function* in this *rule*) in relation to a *PRA-authorised person* (referred to as 'B' in this *rule*), at a particular time, if:
- (1) A has been approved by the *PRA* to perform any *PRA-designated senior management function* in relation to B;
 - (2) throughout the whole of the period between the time of the *PRA* approval in (1) and the time in question, A has been the subject of a *current PRA approved person approval* to perform a *PRA-designated senior management function* in relation to B;
 - (3) at the time of the *PRA* approval referred to in (1), A was not subject to a *current FCA approved person approval* to perform the particular *FCA governing function* in relation to B;

- (4) as part of the application for the *PRA* approval referred to in (1), B notified the *PRA* that A would start to perform what would otherwise have been the particular *FCA governing function* (referred to as the 'potential' *FCA governing function* in this rule) at or around the time of the *PRA* approval in (1); and
- (5) A started to perform the potential *FCA governing function* at, or around the time of, the *PRA* approval in (1) and has continued to perform it up to the time in question (ignoring any occasions on which A has temporarily ceased to perform that function because, for example, of holidays or illness).

10C.9.9

G Table: Examples of how the need for dual FCA and PRA approval in relation to PRA-authorized persons is reduced

Example	Whether FCA approval required	Whether PRA approval required	Comments
(1) A is appointed as chief risk officer and an executive director.	No. A is not treated as performing the <i>executive director function</i> .	Yes	Chief risk officer is a <i>PRA-designated senior management function</i> . A's functions as a director will be included in the <i>PRA-designated senior management function</i> . To avoid the need for <i>FCA</i> approval, A's appointment as director should not take effect before <i>PRA</i> approval for the chief risk officer role.
(2) Same as example (1), except that A will take up the role as an executive director slightly later because approval is needed from the <i>firm's</i> shareholders or <i>governing body</i> .	No	Yes	The answer for (1) applies. The arrangements in this section apply if the application to the <i>PRA</i> says that A will start to perform the potential <i>FCA governing function</i> around the time of the <i>PRA</i> approval as well as at that time.
(3) Same as example (1) but the application to the <i>PRA</i> does not mention that it is also intended that A is to be an	Yes, to perform the <i>executive director function</i> .	Yes	SUP 10C.9.8R does not apply if the application for <i>PRA</i> approval does not say that A will also be performing what

Example	Whether FCA approval required	Whether PRA approval required	Comments
executive director.			would otherwise be an <i>FCA governing function</i> .
(4) A is to be appointed as chief executive and an executive director.	No. A is not treated as performing the <i>executive director function</i> .	Yes	Being a chief executive is a <i>PRA-designated senior management function</i> . A's functions as a director will be included in the <i>PRA controlled function</i> .
(5) A is appointed as chief risk officer. Later, A is appointed as an executive director while carrying on as chief risk officer.	Yes, when A takes up the director role. The <i>executive director function</i> applies.	Yes, when A takes up the chief risk officer role.	SUP 10C.9.8R does not apply because, when the firm applied for approval for A to perform the <i>PRA chief risk officer designated senior management function</i> , there was no plan for A also to perform the <i>executive director function</i> .
(6) A is appointed as an executive director. Later, A takes on the chief risk officer function and remains as an executive director.	Yes, when A is appointed as director. The <i>executive director function</i> applies.	Yes, when A takes up the chief risk officer role.	When A is appointed as chief risk officer, A is still treated as carrying on the <i>executive director function</i> . A retains the status of an <i>FCA-approved person</i> .
(7) A is appointed as chief risk officer. A then stops performing that role and for a while does not perform any <i>controlled function</i> for that firm. Later, A is appointed as an executive director with the same firm.	Yes, when A is appointed as an executive director. The <i>executive director function</i> applies.	Yes, when A takes up the chief risk officer role.	SUP 10C.9.8R does not apply because there is no current <i>PRA</i> approval when A is being appointed as a director.
(8) A is appointed as an executive director and chief risk officer at the same time. Later, A	No, on A's first appointment (see example (1)). But when A gives up the role as chief risk officer, <i>FCA</i>	Yes, on A's first appointment.	When A stops being a chief risk officer, A stops performing a <i>PRA-designated senior</i>

Example	Whether FCA approval required	Whether PRA approval required	Comments
gives up the role as chief risk officer but remains as an executive director.	<p>approval is needed to perform the <i>executive director function</i>.</p> <p>Form E should be used. The application should state that it is being made as a result of A ceasing to perform a <i>PRA-designated senior management function</i>.</p> <p>Form A should be used if there have been changes in A's fitness (SUP 10C.10.9D(4))</p>		<p><i>management function</i>. However, being an executive director requires FCA approval. A does not have that approval because A did not need it when A was first appointed.</p> <p>The combined effect of SUP 10C.9.8R and the relevant PRA rules is that the <i>firm</i> has three months to secure approval by the FCA. During that interim period, A keeps the status of a <i>PRA approved person</i> performing the director element of the <i>PRA chief risk designated senior management function</i> - which is included in that function under relevant PRA rules. The relevant PRA rules say that, during this transitional period, A is still treated as performing the <i>PRA chief risk designated senior management function</i> and SUP 10C.9.8R says that, for as long as A is performing a <i>PRA-designated senior management function</i>, A does not perform the <i>executive director function</i>.</p>

Example	Whether FCA approval required	Whether PRA approval required	Comments
(9) A is appointed as the chief finance officer and an executive director at the same time. Later, A switches to being chief risk officer while remaining as an executive director.	No	Yes	The arrangements in SUP 10C.9.8R continue to apply, even though A switches between <i>PRA-designated senior management functions</i> after the PRA's first approval.
(10) A is appointed chief risk officer and an executive director. A goes on temporary sick leave. A takes up their old job when A comes back.	No, neither on A's first appointment nor when A comes back from sick leave.	Yes, on A's first appointment.	SUP 10C.9.8R still applies on A's return because A does not cease to have approval for the PRA's chief risk function or permanently cease to perform what would otherwise have been the <i>executive director function</i> just because A goes on temporary sick leave.
(11) A is appointed to be chair of the governing body and chair of the nomination committee at the same time.	No. A does not need approval to perform the <i>chair of the nomination committee function</i> .	Yes, on first appointment.	Being chair of the governing body is a <i>PRA-designated senior management function</i> . Therefore, the answer for example (1) applies.
(12) 'A' is to be appointed to perform the Head of Overseas Branch <i>PRA-designated senior management function</i> (SMF19) for an overseas SMCR firm that is not an EEA SMCR firm. A is also an executive director of that firm's UK branch.	No. A is not treated as performing the <i>executive director function</i> .	Yes	A's functions as a director will be included in the <i>PRA controlled function</i> .
Note 1: The relevant PRA rules can be found in the parts of the PRA Rulebook listed in SUP 10C.9.6G .			

		Example	Whether FCA approval required	Whether PRA approval required	Comments
		Note 2: Where one of the examples in this table includes someone being chief risk or finance officer or chair of the <i>governing body</i> , the example assumes that the <i>firm</i> is of a type for which that function is a <i>PRA-designated senior management function</i> .			
10C.9.10	G	(1) The potential <i>FCA governing functions</i> should be recorded in A's <i>statement of responsibilities</i> and in the <i>firm's management responsibilities map</i> . (2) A potential <i>FCA governing function</i> means a function that would have been an <i>FCA governing function</i> but which is not an <i>FCA governing function</i> because of ■ SUP 10C.9.8R.			
		Further guidance on the arrangements between the FCA and PRA about approvals			
10C.9.11	G	The <i>PRA</i> cannot give its approval for the performance of a <i>PRA-designated senior management function</i> without the consent of the <i>FCA</i> . The <i>firm</i> does not need to apply to the <i>FCA</i> for that consent.			
10C.9.12	G	Under section 59B of the <i>Act</i> (Role of FCA in relation to PRA decisions), the <i>FCA</i> may arrange with the <i>PRA</i> that, in agreed cases, the <i>PRA</i> may give approval without obtaining the consent of the <i>FCA</i> . No such arrangements are currently in force.			