

Senior managers and certification regime: Overall and local responsibility

## Chapter 26

Senior managers and  
certification regime: Overall  
and local responsibility



**26.6 Meaning of local and overall responsibility: General**

**UK firms**

26.6.1 **G** The meaning in practice of overall responsibility for a function of a *UK SMCR firm* depends on whether that function is under the management of the *firm's governing body* or not.

26.6.2 **G**

- (1) Certain *EU* legislation requires the *governing body* of a *firm* to have ultimate responsibility for, and the prime and leading role in, managing the *firm*.
- (2) In particular this is the case under:
  - (a) article 88 of the *CRD* (Governance arrangements);
  - (b) article 9 of *MiFID* (management body); and
  - (c) article 40 of the *Solvency II Directive* (Responsibility of the administrative, management or supervisory body).
- (3) This means that the *governing body* of a *UK SMCR firm* subject to these requirements will manage the conduct of the whole of the business of the *firm*. In turn that means that the parts of this chapter dealing with a function that is not managed by the *firm's governing body* will not be relevant to it.

26.6.3 **G** The *FCA* recognises that for some *UK SMCR firms* not subject to the requirements in **SYSC 26.6.2G**, some activities, business areas and functions of a *firm* may not be under the management of its *governing body*. This may be the case where, for example:

- (1) the *firm* does not have a *governing body*; or
- (2) the *firm's* shareholders play a key role in managing it through, for example, a *group* management committee.

**Branches of overseas firms**

26.6.4 **G**

- (1) **SYSC 26.3.2R(1)** refers to the activities, business areas and management functions of the *branch* that are under the management of the *branch's governing body*. However, the *FCA* recognises that for some *branches*, some activities, business areas and functions of the *branches* may not be under the management of the *branch's governing body*. This may be the case where the *branch* does

not have its own *governing body* or where it is organised in such a way that certain functions are under the management of a *person* or body outside the *branch's* management structure. In those circumstances, it would not be appropriate to require the *firm* to allocate overall responsibility for that matter to a *person* who is part of the management structure of the *branch*.

- (2) The requirements to allocate responsibility for activities, business areas and functions of a *branch* under ■ SYSC 26.3.2R(1) and (2) respectively are intended to allow for the difference described in (1). In particular:
  - (a) ■ SYSC 26.3.2R(1) is intended to cater for the situation where a particular activity, business area or function of the *branch* is under the management of the *branch's governing body*. In that situation, the *firm* should allocate responsibility for that matter under ■ SYSC 26.3.2R(1); and
  - (b) ■ SYSC 26.3.2R(2) is intended to cater for the situation where a particular activity, business area or function of the *branch* is not under the management of *branch's governing body*. In that situation, the *firm* should allocate responsibility for that matter under ■ SYSC 26.3.2R(2).

**Further guidance**

26.6.5 G ■ SYSC 26.7 gives *guidance* on the effect of ■ SYSC 26.3 (Main rules) when a function is under the *governing body's* management. ■ SYSC 26.8 gives *guidance* on the effect of ■ SYSC 26.3 when the function is not.

**Day-to-day or ultimate control**

26.6.6 G Having overall or local responsibility under this chapter for a matter does not necessarily mean:

- (1) having ultimate authority over it; or
- (2) having day-to-day management control of that function.

26.6.7 G In particular, the ultimate decision-making body of many *UK SMCR firms* is their *governing body*, acting collectively.