

Chapter 27

Senior managers and certification regime: Certification regime



27.3 Territorial scope

- 27.3.1

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(1) A function is an *FCA certification function* for a *UK SMCR firm* only to the extent:

 - (a) it is performed by a *person* from an establishment of the *firm* (or its *appointed representative*) in the *United Kingdom*; or
 - (b) the *person* performing that function is dealing with a *client* of the *firm* in the *United Kingdom* from an establishment of the *firm* (or its *appointed representative*) overseas.

(2) A function is an *FCA certification function* for an *overseas SMCR firm* only to the extent that it is performed by a *person* from an establishment of the *firm* (or its *appointed representative*) in the *United Kingdom*.

(3) Paragraph (1) does not apply to *FCA certification function* (6) (material risk takers). For a *UK SMCR firm*, *FCA certification function* (6) applies without any territorial limitation.
- 27.3.2

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The *FCA* interprets the phrase ‘dealing with’ in ■ SYSC 27.3.1R as including having contact with *clients* and extending beyond ‘dealing’ as used in the phrase ‘dealing in investments’. ‘Dealing in’ is used in Schedule 2 to the Act to describe in general terms the *regulated activities* which are specified in Part II of the *Regulated Activities Order*.
- 27.3.3

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The *FCA* interprets the phrase ‘a *client* of the *firm* in the *United Kingdom*’ in ■ SYSC 27.3.1R as referring to:

 - (1) for a *client* which is a body corporate, its office or *branch* in the *United Kingdom*; or
 - (2) for a *client* who is an individual, a *client* who is in the *United Kingdom* at the time of the dealing.
- 27.3.4

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(1) The *Regulated Activities Order* has an effect on the territorial scope of this chapter.

(2) As explained in ■ SYSC 27.7.1R (General requirements), a function is only an *FCA certification function* if it is connected to *regulated activities*.

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- (3) Therefore where overseas activities are excluded from being *regulated activities* by the *Regulated Activities Order*, that will have an effect on the certification regime.
- (1) An example of ■ SYSC 27.3.4G is the territorial restriction relating to *regulated claims management activities*.
- (2) As explained in ■ PERG 2.4A (Link between regulated claims management activities and Great Britain), a claims management activity specified in the *Regulated Activities Order* is only a *regulated activity* if it is carried on by way of business in *Great Britain*.
- (3) The result is that a claims management activity specified in the *Regulated Activities Order* carried on outside *Great Britain* is an *unregulated activity* for the purposes of this chapter and the *FCA certification functions*.
- (4) This restriction:
 - (a) applies to the *FCA certification function* in ■ SYSC 27.3.1R(3) as well as to the other *FCA certification functions*; and
 - (b) applies in addition to the restriction in ■ SYSC 27.3.1R.