

Chapter 4

General organisational requirements

4.3A Management body and nomination committee

Management body

4.3A.-1 R

[deleted]

4.3A.1 R

A *common platform firm* must ensure that the *management body* defines, oversees and is accountable for the implementation of governance arrangements that ensure effective and prudent management of the *firm*, including the segregation of duties in the organisation and the prevention of conflicts of interest, and in a manner that promotes the integrity of the market and the interests of *clients*. The *firm* must ensure that the *management body*:

- (1) has overall responsibility for the *firm*;
- (2) approves and oversees implementation of the *firm's* strategic objectives, risk strategy and internal governance;
- (3) ensures the integrity of the *firm's* accounting and financial reporting systems, including financial and operational controls and compliance with the *regulatory system*.
- (4) oversees the process of disclosure and communications;
- (5) has responsibility for providing effective oversight of *senior management*;
- (6) monitors and periodically assesses:
 - (a) the adequacy and the implementation of the *firm's* strategic objectives in the provision of *investment services and/or activities* and *ancillary services*;
 - (b) the effectiveness of the *firm's* governance arrangements; and
 - (c) the adequacy of the policies relating to the provision of services to *clients*, andtakes appropriate steps to address any deficiencies; and
- (7) has adequate access to information and documents which are needed to oversee and monitor management decision-making.

[Note: article 88(1) of *CRD* and articles 9(1) and 9(3) of *MiFID*]

- 4.3A.1A** **R** Without prejudice to ■ SYSC 4.3A.1R, a *common platform firm* must ensure that the *management body* defines, approves and oversees:
- (1) the organisation of the *firm* for the provision of *investment services and/or activities* and *ancillary services*, including the skills, knowledge and expertise required by personnel, the resources, the procedures and the arrangements for the provision of services and activities, taking into account the nature, scale and complexity of its business and all the requirements the *firm* has to comply with;
 - (2) a policy as to services, activities, products and operations offered or provided, in accordance with the risk tolerance of the *firm* and the characteristics and needs of the *firm's clients* to whom they will be offered or provided, including carrying out appropriate stress testing, where appropriate; and
 - (3) a remuneration policy of persons involved in the provision of services to *clients* aiming to encourage responsible business conduct, fair treatment of *clients* as well as avoiding conflict of interest in the relationships with *clients*.
- [Note: article 9(3) of *MiFID*]
- 4.3A.2** **R** A *common platform firm* must ensure that the chairman of the *firm's management body* does not exercise simultaneously the *PRA's* Chief Executive function (*controlled function* SMF1) or *chief executive function* within the same *firm*.
- [Note: article 88(1)(e) of *CRD* and article 9(1) of *MiFID*]
- 4.3A.2A** **G** A *firm* may apply to the *FCA* under section 138A of the Act to waive ■ SYSC 4.3A.2R.
- 4.3A.3** **R** A *common platform firm* must ensure that the members of the *management body* of the *firm*:
- (1) are of sufficiently good repute;
 - (2) possess sufficient knowledge, skills and experience to perform their duties;
 - (3) possess adequate collective knowledge, skills and experience to understand the *firm's* activities, including the main risks;
 - (4) reflect an adequately broad range of experiences;
 - (5) commit sufficient time to perform their functions in the *firm*; and
 - (6) act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of *senior management* where necessary and to effectively oversee and monitor management decision-making.
- [Note: article 91(1)-(2) and (7)-(8) of *CRD* and article 9(1) and 9(4) of *MiFID*]

4.3A.3A	G	<p>(1) A <i>firm</i> should have procedures for monitoring the collective adequacy of the knowledge, skills and experience of its <i>management body</i> as well as of its individual members.</p> <p>(2) A <i>firm</i> may wish to use the “Template for a matrix to assess the collective competence of members of the management body” in Annex I of the joint <i>ESMA</i> and <i>EBA</i> publication titled “Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU” when assessing collective competence.</p> <p>[Note: https://www.esma.europa.eu/document/joint-esma-and-eba-guidelines-assessment-suitability-members-management-body-and-key-0]</p>
4.3A.4	R	<p>A <i>common platform firm</i> must devote adequate human and financial resources to the induction and training of members of the <i>management body</i>.</p> <p>[Note: article 91(9) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
4.3A.5	R	<p>A <i>common platform firm</i> must ensure that the members of the <i>management body</i> of the <i>firm</i> do not hold more directorships than is appropriate taking into account individual circumstances and the nature, scale and complexity of the <i>firm's</i> activities.</p> <p>[Note: article 91(3) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
4.3A.6	R	<p>(1) A <i>common platform firm</i> that is a <i>significant SYSC firm</i> must ensure that the members of the <i>management body</i> of the <i>firm</i> do not hold more than one of the following combinations of directorship in any organisation at the same time:</p> <ul style="list-style-type: none"> (a) one executive directorship with two non-executive directorships; and (b) four non-executive directorships. <p>(2) Paragraph (1) does not apply to members of the <i>management body</i> that represent the <i>United Kingdom</i>.</p> <p>[Note: article 91(3) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
4.3A.6A	G	
4.3A.6B	G	
4.3A.7	R	<p>For the purposes of ■ SYSC 4.3A.5 R and ■ SYSC 4.3A.6 R:</p> <ul style="list-style-type: none"> (1) directorships in organisations which do not pursue predominantly commercial objectives shall not count; and (2) the following shall count as a single directorship:

- (a) executive or non-executive directorships held within the same group; or
- (b) executive or non-executive directorships held within:
 - (i) [deleted]
 - (ii) undertakings (including non-financial entities) in which the firm holds a qualifying holding.

[Note: article 91(4) and (5) of CRD and article 9(1) of MiFID]

Nomination Committee

4.3A.7A R ■ SYSC 4.3A.8R does not apply to a common platform firm that is a MIFIDPRU investment firm.

4.3A.7B G The regulatory requirement for certain MIFIDPRU investment firms to establish nomination committees is contained in ■ MIFIDPRU 7.3.5R. However, all MIFIDPRU investment firms are still subject to ■ SYSC 4.3A.9R and ■ SYSC 4.3A.10R.

4.3A.8 R A common platform firm that is a significant SYSC firm must:

- (1) establish a nomination committee composed of members of the management body who do not perform any executive function in the firm;
- (2) ensure that the nomination committee is able to use any forms of resources the nomination committee deems appropriate, including external advice; and
- (3) ensure that the nomination committee receives appropriate funding.

[Note: article 88(2) of CRD and article 9(1) of MiFID]

4.3A.8A G

4.3A.9 R A common platform firm that has a nomination committee must ensure that the nomination committee:

- (1) engages a broad set of qualities and competences when recruiting members to the management body and for that purpose puts in place a policy promoting diversity on the management body;
- (2) identifies and recommends for approval, by the management body or by general meeting, candidates to fill management body vacancies, having evaluated the balance of knowledge, skills, diversity and experience of the management body;
- (3) prepares a description of the roles and capabilities for a particular appointment, and assesses the time commitment required;

- (4) decides on a target for the representation of the underrepresented gender in the *management body* and prepares a policy on how to increase the number of the underrepresented gender in the *management body* in order to meet that target;
- (5) periodically, and at least annually, assesses the structure, size, composition and performance of the *management body* and makes recommendations to the *management body* with regard to any changes;
- (6) periodically, and at least annually, assesses the knowledge, skills and experience of individual members of the *management body* and of the *management body* collectively, and reports this to the *management body*;
- (7) periodically reviews the policy of the *management body* for selection and appointment of *senior management* and makes recommendations to the *management body*; and
- (8) in performing its duties, and to the extent possible, on an ongoing basis, takes account of the need to ensure that the *management body's* decision making is not dominated by any one individual or small group of individuals in a manner that is detrimental to the interest of the *firm* as a whole.

[Note: article 88(2) and article 91(10) of *CRD* and article 9(1) of *MiFID*]

4.3A.10

R

A *common platform firm* that does not have a nomination committee must engage a broad set of qualities and competences when recruiting members to the *management body*. For that purpose a *common platform firm* that does not have a nomination committee must put in place a policy promoting diversity on the *management body*.

[Note: article 91(10) of *CRD* and article 9(1) of *MiFID*]

Website

4.3A.11

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A *CRR firm* that maintains a website must explain on the website how it complies with the requirements of ■ SYSC 4.3A.1 R to ■ SYSC 4.3A.3 R and ■ SYSC 4.3A.4 R to ■ SYSC 4.3A.11 R.

[Note: article 96 of *CRD*]