

Chapter 4

General organisational requirements

4.4 Apportionment of responsibilities

Application

4.4.1

R

4.4.1A

R

(-2) This section applies to:

(a) a *limited scope SMCR firm* other than:

- (i) a *firm* in ■ SUP 10C Annex 1 7.10R (Table: Limited scope SMCR firms to which no controlled functions apply); and
- (ii) a *limited scope SMCR benchmark firm*; and

(b) an *authorised professional firm* that is a *core SMCR firm*.

(-1) The application of this section is further limited by the rest of this *rule*.

(1) This section applies to an authorised professional *firm* as follows:

(a) it only applies in respect of its *non-mainstream regulated activities*; and

(b) it does not apply if the *firm*:

- (i) is also conducting other *regulated activities*; and
- (ii) has appointed *approved persons* to perform the *FCA governing functions* with equivalent responsibilities for the *firm's non-mainstream regulated activities* and other *regulated activities*.

(2) [deleted]

(3) [deleted]

(4) Only ■ SYSC 4.4.5R(2) applies to an *EEA SMCR firm*. However, the limitation in this paragraph (4) does not apply to a *firm* within ■ SYSC 23 Annex 1 6.13R (claims management).

(5) This section only applies to a *sole trader* if they:

- (a) have any *person* (other than themselves) who is required to be approved under section 59 of the *Act* (Approval for particular arrangements); or
- (b) are an *authorised approved person employer* (except where they are the only *approved person* concerned); or
- (c) have any *certification employees*.

4.4.2 G This section does not apply to a *common platform firm*.

4.4.2A R [deleted]

Maintaining a clear and appropriate apportionment.....

4.4.3 R A *firm* must take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among its *directors* and *senior managers* in such a way that:

- (1) it is clear who has which of those responsibilities; and
- (2) the business and affairs of the *firm* can be adequately monitored and controlled by the *directors*, relevant *senior managers* and *governing body* of the *firm*.

4.4.4 G [deleted]

Allocating functions of apportionment and oversight.....

4.4.5 R A *firm* must appropriately allocate to one or more individuals, in accordance with the following table, the functions of:

- (1) dealing with the apportionment of responsibilities under ■ SYSC 4.4.3 R; and
- (2) overseeing the establishment and maintenance of systems and controls under ■ SYSC 4.1.1 R.

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
(1) A <i>firm</i> which is a <i>body corporate</i> and is a member of a <i>group</i> , other than a <i>firm</i> in row (2)	(1) the <i>firm's chief executive</i> (and all of them jointly, if more than one); or (2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of: (a) the <i>group</i> ; or (b) a <i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
(2) An <i>EEA SMCR firm</i> (note: only the functions in SYSC 4.4.5R (2) must be allocated)	(not applicable)	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>
(3) Any other <i>firm</i>	the <i>firm's chief executive</i> (and all of them jointly, if more than one)	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>

Note: Column 2 does not require the involvement of the *chief executive* or other executive *director* or *senior manager* in an aspect of corporate governance if that would be contrary to generally accepted principles of good corporate governance.

4.4.6

G Frequently asked questions about allocation of functions in ■ SYSC 4.4.5 R

Question	Answer
1 Does an individual to whom a function is allocated under SYSC 4.4.5 R need to be an <i>approved person</i> ?	Yes. They will be performing the limited scope function. However, the <i>limited scope function</i> does not apply to an <i>EEA SMCR firm</i> (except claims management and funeral plan <i>firms</i>) or an <i>authorised professional firm</i> that is a <i>core SMCR firm</i> .
2 If the allocation is to more than one individual, can they perform the functions, or aspects of the functions, separately?	If the functions are allocated to joint <i>chief executives</i> under SYSC 4.4.5 R, column 2, they are expected to act jointly. If the functions are allocated to an individual under SYSC 4.4.5 R, column 2, in addition to individuals under SYSC 4.4.5 R, column 3, the former may normally be expected to perform a leading role in relation to the functions that reflects his position. Otherwise, yes.
3 What is meant by "appropriately allocate" in this context?	The allocation of functions should be compatible with delivering compliance with <i>Principle 3</i> , SYSC 4.4.3 R and SYSC 4.1.1 R. The <i>FCA</i> considers that allocation to one or two individuals is likely to be appropriate for most <i>firms</i> .

Question	Answer
4 If a committee of management governs a <i>firm</i> or <i>group</i> , can the functions be allocated to every member of that committee?	Yes, as long as the allocation remains appropriate (see Question 3). If the <i>firm</i> also has an individual as <i>chief executive</i> , then the functions must be allocated to that individual as well under SYSC 4.4.5 R, column 2 (see Question 7).
5 Does the definition of <i>chief executive</i> include the possessor of equivalent responsibilities with another title, such as a managing <i>director</i> or managing <i>partner</i> ?	Yes.
6 Is it possible for a <i>firm</i> to have more than one individual as its <i>chief executive</i> ?	Although unusual, some <i>firms</i> may wish the responsibility of a <i>chief executive</i> to be held jointly by more than one individual. In that case, each of them will be a <i>chief executive</i> and the functions must be allocated to all of them under SYSC 4.4.5 R, column 2 (see also Questions 2 and 7).
7 If a <i>firm</i> has an individual as <i>chief executive</i> , must the functions be allocated to that individual?	<p>Normally, yes, under SYSC 4.4.5 R, column 2.</p> <p>But if the <i>firm</i> is a <i>body corporate</i> and a member of a <i>group</i>, the functions may, instead of being allocated to the <i>firm's chief executive</i>, be allocated to a <i>director</i> or <i>senior manager</i> from the <i>group</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division, so long as this is appropriate (see Question 3). Such individuals may nevertheless require approval under section 59 (see Question 1).</p> <p>If the <i>firm</i> chooses to allocate the functions to a <i>director</i> or <i>senior manager</i> responsible for the overall management of a relevant <i>group</i> division, the <i>FCA</i> would expect that individual to be of a seniority equivalent to or greater than a <i>chief executive</i> of the <i>firm</i> for the allocation to be appropriate.</p> <p>See also Question 14.</p>
8 If a <i>firm</i> has a <i>chief executive</i> , can the functions be allocated to other individuals in addition to the <i>chief executive</i> ?	Yes. SYSC 4.4.5 R, column 3, permits a <i>firm</i> to allocate the functions, additionally, to the <i>firm's</i> (or where applicable the <i>group's</i>) <i>directors</i> and <i>senior managers</i> as long as this is appropriate (see Question 3).

Question	Answer
<p>9 What if a <i>firm</i> does not have a <i>chief executive</i>?</p>	<p>Normally, the functions must be allocated to one or more individuals selected from the <i>firm's</i> (or where applicable the <i>group's</i>) <i>directors</i> and <i>senior managers</i> under SYSC 4.4.5 R, column 3.</p> <p>But if the <i>firm</i>:</p> <p>(1) is a <i>body corporate</i> and a member of a <i>group</i>; and</p> <p>(2) the <i>group</i> has a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division;</p> <p>then the functions must be allocated to that individual (together, optionally, with individuals from column 3 if appropriate) under SYSC 4.4.5 R, column 2.</p>
<p>10 What do you mean by "<i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall"?</p>	<p>A "<i>division</i>" in this context should be interpreted by reference to geographical operations, product lines or any other method by which the <i>group's</i> business is divided.</p> <p>If the <i>firm's regulated activities</i> fall within more than one division and the <i>firm</i> does not wish to allocate the functions to its <i>chief executive</i>, the allocation must, under SYSC 4.4.5 R, be to:</p> <p>(1) a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i>; or (2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of one of those divisions;</p> <p>together, optionally, with individuals from column 3 if appropriate. (See also Questions 7 and 9.)</p>
<p>11 How does the requirement to allocate the functions in SYSC 4.4.5 R apply to an overseas SMCR <i>firm</i> which is not an EEA SMCR <i>firm</i>?</p>	<p>The <i>firm</i> must appropriately allocate those functions to one or more individuals, in accordance with SYSC 4.4.5 R, but:</p> <p>(1) The responsibilities that must be apportioned and the systems and controls that must be overseen are those relating to activities carried on from a UK establishment with certain exceptions (see SYSC 1 Annex 1 2.15R).</p>

Question	Answer
	<p>(2) The <i>chief executive</i> of an overseas firm is the person responsible for the conduct of the firm's business within the United Kingdom (see the definition of "<i>chief executive</i>"). This might, for example, be the manager of the firm's UK establishment, or it might be the <i>chief executive</i> of the firm as a whole, if he has that responsibility.</p> <p>(3) SYSC 4.4 does not apply to such a firm if it does not have a branch in the United Kingdom.</p>
12 How does the requirement to allocate the functions in SYSC 4.4.5 R apply to an EEA SMCR firm other than a claims management or funeral plan firm?	<p>(1) Such a firm is not required to allocate the function of dealing with apportionment in SYSC 4.4.5R (1).</p> <p>(2) Such a firm is required to allocate the function of oversight in SYSC 4.4.5R (2).</p> <p>(3) Such a firm need not allocate the function of oversight to its <i>chief executive</i>; it must allocate it to one or more <i>directors</i> and <i>senior managers</i> of the firm or the firm's group under SYSC 4.4.5 R, row (2).</p> <p>(4) SYSC 4.4 does not apply to an EEA PTV firm if it does not have a branch in the United Kingdom.</p> <p>See also Question 1.</p>
13 What about a firm that is a partnership or a limited liability partnership?	<p>The FCA envisages that most if not all <i>partners</i> or <i>members</i> will be either <i>directors</i> or <i>senior managers</i>, but this will depend on the constitution of the <i>partnership</i> (particularly in the case of a <i>limited partnership</i>) or <i>limited liability partnership</i>. A <i>partnership</i> or <i>limited liability partnership</i> may also have a <i>chief executive</i> (see Question 5). A <i>limited liability partnership</i> is a <i>body corporate</i> and, if a member of a group, will fall within SYSC 4.4.5 R, row (1) or (2).</p>
14 What if generally accepted principles of good corporate governance recommend that the <i>chief executive</i> should not be involved in	<p>The Note to SYSC 4.4.5 R provides that the <i>chief executive</i> or other executive director or <i>senior manager</i> need not be involved in</p>

Question	Answer
an aspect of corporate governance?	such circumstances. For example, the <i>UK Corporate Governance Code</i> recommends that the board of a listed company should establish an audit committee of independent, non-executive directors to be responsible (among other things) for overseeing the effectiveness of the audit process and the objectivity and independence of the external auditor. That aspect of the oversight function may therefore be allocated to the members of such a committee without involving the <i>chief executive</i> . Such individuals may require approval under section 59 in relation to that function (see Question 1).
15 [deleted]	