INDIVIDUAL ACCOUNTABILITY (REGULATORY REFERENCES)
INSTRUMENT 2016

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(1) section 60 (Applications for approval);
(2) section 137A (The FCA’s general rules);
(3) section 137T (General supplementary powers);
(4) section 138D (Actions for damages); and
(5) section 139A (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 7 March 2017.

Amendments to the Handbook

D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
</tr>
<tr>
<td>Senior Management Arrangements, Systems and Controls sourcebook (SYSC)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Supervision manual (SUP)</td>
<td>Annex C</td>
</tr>
</tbody>
</table>

Notes

E. In Annex B to this instrument, the “notes” (indicated by “Note:”) are included for the convenience of readers but do not form part of the legislative text.

Citation

F. This instrument may be cited as the Individual Accountability (Regulatory References) Instrument 2016.

By order of the Board
22 September 2016
Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

**full scope regulatory reference firm** for the purpose of *SYSC* 22 (Regulatory references):

(a) a *relevant authorised person*;
(b) a *Solvency II firm*; or
(c) a *large non-directive insurer*.

Amend the following definitions as shown.

**employee** (1) (for all purposes except those in (2), (3), and (4) and (4A)) an individual:

…

(3) (for the purposes of *SYSC* 5.2 (Certification regime) and the definition of *certification employee*) has the meaning in section 63E(9) of the *Act* (Certification of employees by relevant authorised persons) which, in summary, says an employee of a *person* ("A" the "employer") includes a reference to a *person* who:

(a) personally provides, or is under an obligation personally to provide, services to A the *employer* under an arrangement made between A the *employer* and the *person* providing the services or another *person*, and

(b) is subject to (or to the right of) supervision, direction or control by A the *employer* as to the manner in which those services are provided.

(4) …

(4A) (for the purposes of *SYSC* 22 (Regulatory references)) has the same meaning as in (3) and, in addition, includes a *person* who:
(a) is an approved person or director of another person (the “employer”); or

(b) performs a function of another person (the “employer”) under an arrangement entered into by the employer or a contractor of the employer; or

(c) performs any service or function for another person (the “employer”) in their capacity as an employee of another member of the employer’s group. For the purpose of (c) an employee of another member of the employer’s group means:

(i) an employee of that group member as defined in paragraph (3); or

(ii) an approved person or director of that group member; or

(iii) a person who performs a function of that group member under an arrangement entered into by the group member or a contractor of the group member.

(5) for the purposes of (1) and (2) to (4A), “employment” is to be construed accordingly.

employer

(1) (for the purposes of SUP 15.11 (Notification of conduct rule breaches and disciplinary action and COCON, and as defined in more detail in section 64A of the Act (Rules of conduct)), the person described as the “employer” in paragraph (4) of the Glossary definition of employee.

(2) (for the purposes of SYSC 22 (Regulatory references)) the person described as the “employer” in paragraphs (3) and (4A) of the Glossary definition of employee.
Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.1A Application

...

1.1A.1 The application of this sourcebook is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

<table>
<thead>
<tr>
<th>Type of firm</th>
<th>Applicable chapters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurer</td>
<td>Chapters 2, 3, 12 to 18, 21, 22</td>
</tr>
<tr>
<td>Managing agent</td>
<td>Chapters 2, 3, 11, 12, 18, 21, 22</td>
</tr>
<tr>
<td>Society</td>
<td>Chapters 2, 3, 12, 18, 21, 22</td>
</tr>
<tr>
<td>Every other firm</td>
<td>Chapters 4 to 12, 18, 19D, 21, 22</td>
</tr>
</tbody>
</table>

...

1.1A.1A The application of this sourcebook to firms that are not PRA-authorised persons is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

<table>
<thead>
<tr>
<th>Type of firm</th>
<th>Applicable chapters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-scope UK AIFM</td>
<td>Chapter Chapters 19B, 21, 22</td>
</tr>
<tr>
<td>BIPRU firm (including a third-country BIPRU firm)</td>
<td>Chapters 4 to 10, 12, 18, 19C, 21, 22</td>
</tr>
<tr>
<td>IFPRU investment firm (including an overseas firm that would have been an IFPRU investment firm if it had been a BIPRU firm)</td>
<td>Chapters 4 to 10, 12, 18, 19A, 21, 22</td>
</tr>
</tbody>
</table>
1.1A.2 G …

…

(3) For Solvency II firms, the FCA considers that the requirements and guidance in Chapters 2, 3, 12 to 18, and 21 and 22 of SYSC are not inconsistent with:

…

1.4 Application of SYSC 11 to SYSC 21-22

…

Actions for damages

1.4.2 R A contravention of a rule in SYSC 11 to SYSC 21, SYSC 22.8.1R or SYSC 22.9.1R does not give rise to a right of action by a private person under section 138D of the Act (and each of those rules is specified under section 138D(3) of the Act as a provision giving rise to no such right of action).

…

4.7 Senior management responsibilities for UK relevant authorised persons: allocation of responsibilities

…

4.7.7 R Table: FCA-prescribed senior management responsibilities

<table>
<thead>
<tr>
<th>FCA-prescribed senior management responsibility</th>
<th>Explanation</th>
<th>Equivalent PRA-prescribed senior management responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part One (applies to all firms)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Responsibility for the firm’s performance of its obligations under the senior management regime</td>
<td>The senior management regime means the requirements of the regulatory system applying to relevant authorised persons insofar as they relate to SMF managers performing designated senior management functions, including SUP 10C</td>
<td>PRA-prescribed senior management responsibility 4.1(1)</td>
</tr>
</tbody>
</table>
(FCA senior management regime for approved persons in relevant authorised persons).

This responsibility includes:

1. compliance with conditions and time limits on approval;
2. compliance with the requirements about the *statements of responsibilities* (but not the allocation of responsibilities recorded in them); and
3. compliance by the firm with its obligations under section 60A of the *Act* (Vetting of candidates by relevant authorised persons); and
4. compliance by the firm with the requirements in SYSC 22 (Regulatory references) so far as they relate to the senior management regime, including the giving of references to another firm about an SMF manager or former SMF manager.

| (2) Responsibility for the firm’s performance of its obligations under the employee certification regime | The employee certification regime means the requirements of sections 63E and 63F of the *Act* (Certification of employees) and all other requirements of the regulatory system about the matters dealt with in those sections, including:

1. SYSC 5.2 (Certification Regime);
2. the requirements in SYSC 22 (Regulatory references) so far as they relate to the employee certification regime, including the giving of references to another firm about a certification employee or former certification employee. | PRA-prescribed senior management responsibility 4.1(2) |
employee; and

(3) the corresponding PRA requirements.

...  

4.8  

Senior management responsibilities for third-country relevant authorised persons: allocation of responsibilities

...  

4.8.9  

R Table: FCA-prescribed senior management responsibilities for third-country relevant authorised persons.

<table>
<thead>
<tr>
<th>FCA-prescribed senior management responsibility in relation to the branch</th>
<th>Explanation</th>
<th>Equivalent PRA-prescribed UK branch senior management responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Responsibility for the firm’s performance of its obligations under the senior management regime</td>
<td>The senior management regime means the requirements of the regulatory system applying to relevant authorised persons insofar as they relate to SMF managers performing designated senior management functions, including SUP 10C (FCA senior management regime for approved persons in relevant authorised persons). This responsibility includes: (1) compliance with conditions and time limits on approval; (2) compliance with the requirements about the statements of responsibilities (but not the allocation of responsibilities recorded in them); and (3) compliance by the firm with its obligations under section 60A</td>
<td>PRA-prescribed UK branch senior management responsibility 6.2(1)</td>
</tr>
</tbody>
</table>
of the *Act* (Vetting of candidates by relevant authorised persons); and

(4) compliance by the *firm* with the requirements in *SYSC 22* (Regulatory references) so far as they relate to the senior management regime, including the giving of references to another firm about an *SMF manager* or former *SMF manager*.

(2) Responsibility for the *firm’s* performance of its obligations under the employee certification regime

The employee certification regime means the requirements of sections 63E and 63F of the *Act* (Certification of employees) and all other requirements of the regulatory system about the matters dealt with in those sections, including:

(1) *SYSC 5.2* (Certification Regime);

(2) the requirements in *SYSC 22* (Regulatory references) so far as they relate to the employee certification regime, including the giving of references to another firm about a certification employee or former certification employee; and

(3) the corresponding *PRA* requirements.

PRA-prescribed UK branch senior management responsibility 6.2(2)

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### 5.2 Certification regime

... 

5.2.9 [Not used] *SYSC 22* (Regulatory references) deals with obtaining references from a previous *employer* when a *firm* is planning to appoint someone to perform a *specified significant-harm function* as part of its assessment of
whether that person is fit and proper.

... After SYSC 21 (Risk control: additional guidance) insert the following new chapter. The text is not underlined.

22 Regulatory references

22.1 Application

General application

22.1.1 R This chapter applies to all firms (subject to SYSC 22.1.5R).

Activities covered

22.1.2 G This chapter is not limited to regulated activities or other specific types of activities.

Territorial scope and overseas firms

22.1.3 R There is no territorial limitation on the application of this chapter, subject to SYSC 22.1.5R and SYSC 22.1.6R.

22.1.4 G One effect of SYSC 22.1.3R is that the obligation to provide a reference can apply even if the employee worked in an overseas office of the employer.

22.1.5 R This chapter does not apply to an overseas firm that does not have an establishment in the United Kingdom.

22.1.6 R For an incoming firm or any other overseas firm, SYSC 22.2.2R (Obligation to give references) only applies if the current or former employee in question (defined as “P” in SYSC 22.2.2R) is or was an employee of its branch in the United Kingdom and only relates to their activities as such.

22.1.7 R (1) In order to decide whether someone is an employee of a branch, the Glossary definition of employee is applied to the branch as if the branch and the firm of which it forms part were separate firms.

(2) For the purpose of (1), paragraph (4A)(c) of the definition of employee (someone employed elsewhere in the group) does not apply.

22.2 Getting, giving and updating references: the main rules

Obligation to obtain references (full scope regulatory reference firms only)

22.2.1 R (1) If a full scope regulatory reference firm (A) is considering:
(a) permitting or appointing someone (P) to perform a
controlled function; or

(b) issuing a certificate under the certification regime for P;

(as explained in more detail in rows (A) and (B) of the table in SYSC 22.2.3R), A must take reasonable steps to obtain appropriate references from:

(c) P’s current employer; and

(d) anyone who has been P’s employer in the past six years.

(2) A must take reasonable steps to obtain the reference before the time in column two of the applicable row in the table in SYSC 22.2.3R.

(3) A must in particular request:

(a) the information in SYSC 22.2.2R(1) to (3); and

(b) (if P’s current or previous employer is also a full scope regulatory reference firm) the information in SYSC 22.2.2R(4) (questions (A) to (F) of Part One of SYSC 22 Annex 1R).

(4) When deciding what information to request under (1), A must have regard to the factors in SYSC 22.2.2R(5) (Factors set out in SYSC 22 Annex 2R).

Obligation to give references

22.2.2 R (1) A firm (B) must provide a reference to another firm (A) as soon as reasonably practicable if:

(a) A is considering:

(i) permitting or appointing someone (P) to perform a
controlled function; or

(ii) issuing a certificate under the certification regime for P; or

(iii) appointing P to another position in the table in SYSC 22.2.3R;

(as explained in more detail in the table in SYSC 22.2.3R);

(b) A makes a request, for a reference or other information in respect of P from B, in B’s capacity as P’s current or former employer;

(c) B:
(i) is P’s current employer; or

(ii) has been P’s employer at any time in the six year period preceding the request in (1)(b); and

(d) A indicates to B the purpose of the request.

(2) B must disclose to A in the reference all information of which B is aware that B reasonably considers to be relevant to A’s assessment of whether P is fit and proper.

(3) B is only required to disclose under (1) and (2) something that occurred or existed:

(a) in the six years before the request for a reference; or

(b) between the date of the request for the reference and the date B gives the reference; or

(c) (in the case of serious misconduct) at any time.

[Note: See SYSC 22.5.10G and SYSC 22.5.11G for guidance on the meaning of serious misconduct]

(4) If B is a full scope regulatory reference firm:

(a) B must in addition disclose the information in questions (A) to (F) of Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements); and

(b) B must disclose the information in (a) whether or not A is a full scope regulatory reference firm.

(5) When deciding what information to give to A under (1) to (3), B must have regard to the factors in SYSC 22 Annex 2R (Factors to take into account when asking for and giving regulatory references).

### 22.2.3 Table: What positions need a reference

<table>
<thead>
<tr>
<th>Position</th>
<th>When to obtain reference</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Permitting or appointing someone to perform an FCA controlled function or a PRA controlled function.</td>
<td>One month before the end of the application period</td>
<td>Where a request for a reference would require:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) the firm requesting the</td>
</tr>
</tbody>
</table>
reference;
(b) the *employer* giving the reference; or
(c) any other *person*;
to make a mandatory disclosure prior to P disclosing to its current *employer* that such application has been made, the date is the end of the application period.

<table>
<thead>
<tr>
<th>(B) Issuing a certificate under section 63F of the Act (Certification of employees by relevant authorised persons).</th>
<th>Before the certificate is issued</th>
<th>This includes renewing an existing certificate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(C) Appointing someone to any of the following positions (as defined in the <em>PRA Rulebook</em>):</td>
<td>Not applicable</td>
<td><em>SYSC</em> 22.2.1R (obligation to obtain a reference) does not apply to a <em>firm</em> appointing someone to the position in column (1). However <em>SYSC</em> 22.2.2R does apply to a <em>firm</em> asked to give a reference to a <em>firm</em> appointing someone to the position in column (1).</td>
</tr>
</tbody>
</table>

(a) a notified non-executive director;
(b) a credit union non-executive director; or
(c) a key function holder.

**Note 1:** Mandatory disclosure means an obligation in any applicable laws, regulations or rules to declare or disclose information to the public.

**Note 2:** P refers to the *employee* or ex-*employee* about whom the reference is given as defined in more detail in *SYSC* 22.2.1R and *SYSC* 22.2.2R.

**Note 3:** The application period means the period for consideration referred to in section 61 of the *Act* (Determination of application).

**Obligation to revise references:** The main rule (full scope regulatory reference firms only)

22.2.4 R If at any time:

(1) a *full scope regulatory reference firm* (B) has given a reference under *SYSC* 22.2.2R to another *firm* (A) about an *employee* or ex-
employee of B (P);

(2) B was also a full scope regulatory reference firm when it gave the reference in (1);

(3) either of the following applies:

(a) B is aware of matters or circumstances that mean that if B had been aware of them when giving that reference, this chapter would have required B to draft the reference differently; or

(b) the following applies:

(i) B has since giving the reference reached conclusions of the type described in question (E) of Part One of SYSC 22 Annex 1R or taken disciplinary action of the type described in question (F) of Part One of SYSC 22 Annex 1R; and

(ii) if B had taken or reached those conclusions or actions within the six year period referred to in Part One of SYSC 22 Annex 1R, this chapter would have required B to draft the reference differently; and

(4) it would be reasonable to consider the differences in (3) to be significant for an assessment by A of the fitness and propriety of P for the role at A for which the reference was given;

B must:

(5) make reasonable inquiries as to the identity of P’s current employer; and

(6) give A details of those differences in writing as soon as reasonably practicable, unless SYSC 22.2.5R says that B does not have to do so.

22.2.5 R B does not need to update A if:

(1) A is no longer a firm;

(2) P has not yet been employed by A (because, for example, P is still working their notice period with B) and it is no longer intended for A to employ P;

(3) A is no longer P’s employer; or

(4) despite making reasonable enquiries under SYSC 22.2.4R, B does not know whether P is still employed by A.

22.2.6 R This rule sets out time limits about the obligation to update a reference in SYSC 22.2.4R.
(1) If B still employs P, SYSC 22.2.4R applies throughout the period B remains employed.

(2) If B no longer employs P, the obligation to update ends six years after P ceased to be employed by B.

(3) If B no longer employs P and the matters or circumstances are not serious misconduct by P, B does not have to disclose something if it did not occur or exist in the six year period ending on the date B gave the original reference. This limitation applies in addition to the one in (2).

[Note: See SYSC 22.5.10G and SYSC 22.5.11G for guidance on the meaning of serious misconduct]

Obligation to revise references: Finding out who the current employer is (all firms)

22.2.7 R If at any time:

(1) a full scope regulatory reference firm (B) has given a reference under SYSC 22.2.2R to another firm (A) about an employee or ex-employee of B (P);

(2) B asks A whether P is still an employee of A; and

(3) B gave A the reference no more than six years ago;

A must answer that question as soon as reasonably practicable, even if B does not tell A why it wants to know that information.

22.3 Drafting the reference and the request for a reference

How to draft the reference

22.3.1 G There are no requirements about the form in which a firm that is not a full scope regulatory reference firm should give a reference.

22.3.2 G SYSC 22.4 has requirements about the form in which a full scope regulatory reference firm should give a reference.

How to draft the request for a reference

22.3.3 G (1) A firm (A) asking another firm (B) for a reference should give B sufficient information to let B know that the requirements in this chapter apply to the reference it is being asked to give and which requirements apply.

(2) As long as it complies with (1), A does not have to set out specifically the information this chapter requires it to obtain. This is
because B should include that information even though B is not specifically asked to include it.

22.3.4 G A firm asking for a reference under this chapter from a current or former employer that is not a firm will normally need to specify what information it would like.

Inclusion of additional material

22.3.5 G (1) This chapter sets out minimum requirements for a reference. It does not prevent a firm from including more than is required by this chapter.

(2) If a firm does disclose more than is required by this chapter the reference should still meet its duties under general law to its former employee and the recipient (see SYSC 22.5.3G to SYSC 22.5.5G).

22.3.6 G Nothing in this chapter prevents a firm from disclosing material outside the time limits under this chapter.

22.4 Drafting the reference: detailed requirements for full scope regulatory reference firms

Purpose of SYSC 22 Annex 1R

22.4.1 G SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements) has two purposes:

(1) to set out what information a full scope regulatory reference firm should disclose under SYSC 22.2.2R(4); and

(2) to provide a template that a full scope regulatory reference firm should use when giving a reference under this chapter.

How to draft the reference

22.4.2 R (1) A full scope regulatory reference firm must use the template in Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements) when giving a reference under this chapter to another firm (A).

(2) A firm may make minor changes to the format of the template in Part One of SYSC 22 Annex 1R when giving a reference under this chapter, provided that the reference includes all the information required by SYSC 22 Annex 1R.

(3) This rule applies even if A is not a full scope regulatory reference firm.

22.4.3 G (1) SYSC 22.4.2R does not stop a full scope regulatory reference firm
including matters in the reference not required by the template in SYSC 22 Annex 1R.

(2) A full scope regulatory reference firm may include the material required by the template and additional material in the same document.

(3) Any additional material should not alter the scope of any of the questions in the templates.

22.4.4 G A full scope regulatory reference firm should use the template in SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements) even if the firm asking for the reference does not specifically ask it to.

PRA requirements

22.4.5 R B may combine in a single reference what the PRA’s rules require and what this chapter requires.

22.5 Giving references: additional rules and guidance for all firms

Verification

22.5.1 R This chapter does not require a firm to disclose information that has not been properly verified.

22.5.2 G (1) For example, this chapter does not necessarily require a firm to include in a reference the fact that an ex-employee left while disciplinary proceedings were pending or had started. Including such information is likely to imply that there is cause for concern about the ex-employee but the firm may not have established that the ex-employee was actually responsible for misconduct.

(2) However, a firm may include such information in a reference if it wishes to (see SYSC 22.3.5G).

Accuracy

22.5.3 G A firm should, when giving a reference under this chapter, provide as complete a picture of an employee’s conduct record as possible to new employers.

Fairness

22.5.4 G (1) A firm supplying a reference in accordance with this chapter owes a duty under the general law to its former employee and the recipient firm to exercise due skill and care in the preparation of the reference.

(2) The firm may give frank and honest views, but only after taking
reasonable care both as to factual content, and as to the opinions expressed.

(3) References should be true, accurate, fair and based on documented fact.

22.5.5 G (1) An example of the general duty described in SYSC 22.5.4G is that fairness will normally require a firm to have given an employee an opportunity to comment on information in a reference. The firm might do this through, for example, disciplinary proceedings.

(2) Paragraph (1) does not mean that the firm should provide an opportunity to comment on the reference itself, as opposed to the allegations on which it is based.

(3) A firm may have given the employee an opportunity to comment on allegations that are later included in a reference even though, at the time that the firm is giving that opportunity, no reference is being contemplated. That may mean that the firm gives the employee their opportunity to comment on the allegations some time before the reference is prepared.

(4) Paragraph (1) does not mean that a firm will be unable to include an allegation in a reference if it has offered the employee an opportunity to comment on the allegation but the employee has unreasonably refused to do so.

(5) Where a firm should have given an employee an opportunity to comment on an allegation if the allegation is to be included in a reference, this chapter requires the firm to give the employee that opportunity rather than merely to leave the allegation out of the reference.

(6) Paragraph (5) may mean that where the firm has not given its employee an opportunity to comment on a matter at the time it first arose, it will have to give the employee the opportunity around the time that the firm is preparing the reference.

(7) The obligation to give an employee an opportunity to comment does not mean that there is a wider duty to investigate whether there are facts that show that there has been a conduct breach (see SYSC 22.5.18G).

(8) This chapter does not require the employee’s views to be included in the reference. Instead the firm should take those views into account so far as appropriate when deciding whether something should be disclosed and how the disclosure is drafted.

Outsourcing

22.5.6 G The requirements in this chapter for a firm (B) to give a firm (A) a reference
also apply where A has outsourced the collection of that information to another (unregulated) third party, where B has been made aware that the unregulated third party is acting on behalf of A.

Circumstances in which the ex-employee left

22.5.7 G The obligation to give a reference for an employee or ex-employee applies however the employment ended or is going to end. For example, it applies whether it ended through resignation, redundancy, dismissal or fixed term work, a secondment or temporary work coming to an end.

Missing or incomplete information

22.5.8 G (1) If a firm’s records do not cover the maximum periods contemplated by SYSC 22.2.2R or SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements), the firm should note that in the reference.

(2) A firm should not include a warning of the type described in (1) as a matter of routine. It should only be included if there is a genuine need to include it.

All relevant information: Calculation of six year period for disclosure

22.5.9 G (1) In general there is a six year limit on what should be disclosed under SYSC 22.2.2R(1) to (3).

(2) Where the matter to be disclosed consists of a single course of conduct (such as market manipulation) the six year period does not begin until that course of conduct has come to an end. This means that individual events that occurred more than six years ago may still be within the six year limit.

(3) This guidance is also relevant to the six year time limits for updating references in SYSC 22.2.6R.

All relevant information: Removal of six year period

22.5.10 G (1) SYSC 22.2.2R(1) to (3) normally has a six year time limit. SYSC 22.2.2R(3)(c) removes that time limit for serious matters. This paragraph (SYSC 22.5.10G) and SYSC 22.5.11G have guidance about this. This guidance is also relevant to the time limits for updating references in SYSC 22.2.6R.

(2) The removal of the time limit does not mean that the time that has elapsed since the matter occurred is irrelevant. The length of time that has elapsed is relevant to deciding whether the matter is serious. In general, the longer ago the matter occurred, the less likely it is still to be serious for these purposes.

(3) In determining whether something is serious for these purposes, the key question is how important the information still is for the
requesting firm’s assessment of the employee’s fitness for the function that they are going to perform.

(4) In considering what is relevant, a firm should, in particular, have regard to SYSC 22.5.4G (Fairness).

(5) The table in SYSC 22.5.11G provides guidance on some of the factors which a firm should take into account when determining whether a matter is serious.

(6) The guidance in this paragraph and in the table in SYSC 22.5.11G is only designed for the purposes of this chapter. It does not, for example, apply for the purposes of SUP 15 (Notifications to the FCA), DEPP or EG.

22.5.11 G Table: Examples of factors to take into account when deciding whether old misconduct is sufficiently serious to disclose

<table>
<thead>
<tr>
<th>Factors to take into account</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Whether P has committed a serious breach of individual</td>
<td>Individual conduct requirements has the same meaning as in Part Two of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements). Factors to take into account in deciding whether the breach is serious include the following.</td>
</tr>
<tr>
<td>conduct requirements.</td>
<td></td>
</tr>
<tr>
<td>(1) The extent to which the conduct was deliberate or reckless.</td>
<td></td>
</tr>
<tr>
<td>(2) The extent to which the conduct was dishonest.</td>
<td></td>
</tr>
<tr>
<td>(3) Whether the breaches are frequent or whether they have</td>
<td>The fact that breaches were frequent or repeated may increase the likelihood that they should be disclosed since the breaches may show a pattern of non-compliance.</td>
</tr>
<tr>
<td>continued over a long period of time. The fact that breaches</td>
<td></td>
</tr>
<tr>
<td>were frequent or repeated may increase the likelihood that they</td>
<td></td>
</tr>
<tr>
<td>should be disclosed since the breaches may show a pattern of</td>
<td></td>
</tr>
<tr>
<td>non-compliance.</td>
<td></td>
</tr>
<tr>
<td>(4) The extent of loss, or risk of loss, caused to existing,</td>
<td>The extent of loss, or risk of loss, caused to existing, past or potential investors, depositors, policyholders or other counterparties or customers.</td>
</tr>
<tr>
<td>past or potential investors, depositors, policyholders or other</td>
<td></td>
</tr>
<tr>
<td>counterparties or customers.</td>
<td></td>
</tr>
<tr>
<td>(5) The reasons for the breach. For example, where the breach</td>
<td></td>
</tr>
</tbody>
</table>
caused by lack of experience which has been remedied by training or further experience, it is less likely that the breach will still be relevant.

(B) Whether the conduct caused B to breach requirements of the regulatory system or P was concerned in a contravention of such a requirement by B and, in each case, whether P’s conduct was itself serious.

(1) The factors in (A) are relevant to whether P’s conduct was serious.

(2) The seriousness of the breach by B is relevant. The factors in (A) are also relevant to this.

(3) A breach by B of certain requirements is always likely to be serious under (2). Breach of the threshold conditions is an example. However that does not mean that P’s involvement will automatically be serious.

(C) Whether P’s conduct involved dishonesty (whether or not also involving a criminal act).

Dishonesty is an important factor but it is not automatically decisive in every case. For instance, a small one-off case of dishonesty many years ago may not be sufficiently serious to require disclosure.

(D) Whether the conduct would have resulted in B’s dismissing P, had P still been working for B, based on B’s disciplinary policies and the requirements of the law about unfair dismissal.

(E) Whether the conduct was such that, if B was considering P for a role today and became aware of the historical conduct, B would not employ P today notwithstanding the time that has passed.

Note 1: P refers to the employee about whom the reference is being written.
Note 2: B refers to the firm giving the reference.

Breach of APER

22.5.12 G (1) An example of information that may be relevant under SYSC 22.2.2R(1) to (3) is the fact that the employee has breached a requirement in APER.

(2) This means that any firm (not just one that is a full scope regulatory reference firm) should consider whether it needs to disclose a breach of APER when giving a reference under this chapter.

Agreements not to disclose information

22.5.13 R A firm must not enter into any arrangements or agreements with any person that limit its ability to disclose information under this chapter.

22.5.14 G SYSC 22.5.13R covers all types of agreements and arrangements. For example:

(1) it is not limited to an agreement or arrangement entered into when the employee leaves;

(2) it applies however the employment ends (see SYSC 22.5.7G); and

(3) it covers a “COT 3” Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS).

22.5.15 G A firm should not give any undertakings to supress or omit relevant information in order to secure a negotiated release.

22.5.16 G The obligation to supply information to another firm under this chapter will apply notwithstanding any agreement prohibited by SYSC 22.5.13R.

Time in which to respond to reference requests

22.5.17 G The FCA expects that normally a firm should issue a reference under this chapter within six weeks of being asked to.

Duty to investigate allegations

22.5.18 G (1) A firm should, wherever feasible, conclude investigative procedures before the employee departs.

(2) However, this chapter does not create a duty to investigate alleged misconduct by an employee or former employee.

(3) There are several reasons why a firm may find it appropriate to investigate potential misconduct by an employee or former employee, including:
(a) assessing the actual and potential damage resulting from misconduct;

(b) identifying other individuals potentially culpable or accountable for the breach;

(c) satisfying itself that the SMF manager responsible for the areas where the misconduct occurred took reasonable steps to prevent or stop it; and

(d) (where the employee has remuneration susceptible to malus or clawback) enabling it to consider whether any adjustments are justified.

Criminal record checks

22.5.19 G A firm giving a reference need not include information from a criminal records check it has carried out under Part V of the Police Act 1997 (Certificates of Criminal records, etc). The recruiting firm should carry out a criminal records check itself if necessary. SUP 10C.10.16R requires a relevant authorised person to carry out such a check when appointing an SMF manager.

22.6 Giving and updating references: additional rules and guidance for full scope regulatory reference firms

Omitting or supplementing mandatory disclosures

22.6.1 G (1) A firm may have concluded that an employee is unfit or has breached COCON or APER (as described in questions (E) to (F) of Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements)). The firm may later become aware of facts or matters causing it to revise its original conclusions.

(2) If so, the firm may decide not to disclose in a reference its conclusion or may qualify its conclusion with supplementary information.

22.6.2 G (1) A firm may have concluded that an employee is unfit or has breached COCON or APER (as described in questions (E) to (F) of Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements)). However the firm may consider that the disclosure is incomplete without including mitigating circumstances.

(2) For example, if the firm is reporting a breach of COCON it may consider that the breach is very uncharacteristic of the employee and that they have had an exemplary record since then. In that case, the firm should include those views.
Requirement to consider whether there has been a conduct breach

22.6.3 G (1) If a firm has taken disciplinary action of the type referred to in question (F) in Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements) against an employee and is asked to give a reference about that employee, the firm should (if it has not already done so) consider whether the basis on which it took that action amounts to a breach of any individual conduct requirements covered by question (F).

(2) If the firm decides that the basis on which it took that action does amount to a breach of those requirements, it should include that disciplinary action in the reference under question (F).

(3) Paragraph (2) applies even if the grounds of the disciplinary action did not include such a breach of individual conduct requirements.

(4) SYSC TP 5.4.5R disapplies the requirement in (1) for disciplinary action taken before 7 March 2017 or, in the case of relevant authorised persons, 7 March 2016, where a full scope regulatory reference firm’s records do not record whether previous conduct subject to disciplinary action amounted to a breach.

(5) The obligation to consider whether there was a conduct breach does not mean that there is a wider duty to investigate whether there are facts that show that there has been a conduct breach (see SYSC 22.5.18G).

All relevant information: Interaction with mandatory disclosures

22.6.4 G (1) SYSC 22.2.2R(1) to (3) may require a full scope regulatory reference firm to disclose information that goes beyond the mandatory minimum information in Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements).

(2) This may mean, for instance, that a firm should in some cases disclose a conclusion that an employee or former employee has breached COCON or APER where that conclusion was reached outside the time limits in Part One of SYSC 22 Annex 1R.

Updating references fairly

22.6.5 G (1) SYSC 22.5.1R to SYSC 22.5.5G (Verification, accuracy and fairness) also apply to updating a reference under SYSC 22.2.4R.

(2) Therefore fairness may require a firm to have given an employee an opportunity to comment on an allegation if it is included in an update to a reference.
22.7 Getting references: additional rules and guidance for full scope regulatory reference firms

Intra-group transfers

22.7.1 R (1) This rule applies when:

(a) a full scope regulatory reference firm (A) would otherwise have to ask another person (B) for a reference under SYSC 22.2.1R; and

(b) A and B are in the same group.

(2) A need not ask for a reference from B if there are adequate arrangements in place under which A has access to the same information sources as B to the extent that they are relevant to things A has to ask B under SYSC 22.2.1R (Obligation to obtain references).

(3) If A only has access to some of the information sources in (2), A may ask for a reference that only covers the sources to which A does not have such access.

(4) If A, in accordance with this rule, does not ask for a reference or a full reference it must access the information resources referred to in this rule and get the relevant information within the time specified by SYSC 22.2.3R.

22.7.2 G (1) SYSC 22.7.1R means that a firm recruiting someone from another member of its group is not required to request a reference from the other where the group has centralised records or alternative measures in place to ensure sharing of relevant information between its members.

(2) The recruiting firm should be satisfied that the centralised or alternative measures ensure relevant information is made available as part of the fit and proper assessment of the recruit.

Who should be asked to give a reference

22.7.3 G The Glossary definition of employer covers more than just a conventional employer and so it may not always be obvious who a person’s employer is. Therefore a full scope regulatory reference firm appointing someone to a position that requires a reference may have to get the employee’s help in identifying their previous employers.

22.7.4 G (1) SYSC 22.2.1R (Obligation of a full scope regulatory reference firm to try to obtain a reference) applies even if the ex-employer is not a firm.
(2) A full scope regulatory reference firm should take all reasonable steps to try to obtain the reference in these circumstances. However, the FCA accepts that the previous employer may not be willing to give sufficient information.

Asking for a reference to be updated

22.7.5 G (1) SYSC 22.2.1R (Obligation of a full scope regulatory reference firm to try to obtain a reference) applies even if the employer has already got a reference for the employee. For example:

(a) a relevant authorised person should have a reference whenever it renews the certificate of a certification employee; and

(b) changing jobs within the same full scope regulatory reference firm may require a reference.

(2) However, the full scope regulatory reference firm does not necessarily need to obtain a new reference each time (a) or (b) above occurs. That is because an existing reference will very often still be appropriate for the purpose (see SYSC 22.7.6G to SYSC 22.7.8G).

22.7.6 G If a relevant authorised person (A):

(1) appoints someone (P) to a specified significant-harm function position;

(2) obtains a reference from an ex-employer; and

(3) later wishes to renew P’s certificate under the certification regime;

it is unlikely that A will need to ask for another reference from that ex-employer or ask for it to be reissued unless there is a change in P’s role of the type described in SYSC 5.2.17G (major changes in role).

22.7.7 G (1) If a full scope regulatory reference firm (A):

(a) appoints someone (P) to a specified significant-harm function or an approved person position;

(b) obtains a reference from an ex-employer (B); and

(c) later wishes to:

(i) appoint P to another specified significant-harm function or approved person position; or

(ii) keep P in the same specified significant-harm function but make a change in P’s role of the type described in SYSC 5.2.17G (major changes in role), whether that change is made at a time when the certificate has not
yet come up for renewal or at the time it is being reissued; or

(iii) move P from a specified significant-harm function to an approved person position or vice versa;

A should consider whether to ask B to reissue or amend its reference.

(2) A may decide that it is not necessary to ask B to reissue or amend its reference. For example, A may decide that:

(a) the existing reference already covers everything necessary; or

(b) (where B is not a firm) B will not give any further information.

22.7.8 G If:

(1) a firm (A) appoints someone (P) to a specified significant-harm function or approved person position;

(2) A obtains a reference from an ex-employer (B);

(3) later P transfers to a specified significant-harm function or an approved person position with a full scope regulatory reference firm in A’s group (C);

(4) B’s reference is:

(a) addressed to all firms in A’s group; or

(b) otherwise drafted so that it is clear that C may rely on it; and

(5) C does not need to ask for the reference to be reissued or amended, taking account of SYSC 22.7.6G and SYSC 22.7.7G;

C may be able to rely on that reference without asking B to give another one.

When references are to be obtained

22.7.9 G If a full scope regulatory reference firm is unable to obtain a reference by the time in column two of the table in SYSC 22.2.3R, it should still try to obtain the reference as soon as possible afterwards.

22.7.10 G (1) Where a relevant authorised person needs to fill a vacancy for a specified significant-harm function which could not have reasonably been foreseen, the FCA recognises that it may not be reasonable to expect the relevant authorised person to obtain references prior to issuing a certificate.

(2) In such cases, the relevant authorised person should take up the
reference as soon as reasonably possible.

(3) If a reference obtained later raises concerns about the person’s fitness and propriety, the relevant authorised person should revisit its decision to issue the person with a certificate.

22.7.11 G (1) Although this chapter (see SYSC 22.2.3R) only requires a full scope regulatory reference firm to try to get a reference for a person it is recruiting to perform an FCA controlled function or a PRA controlled function towards the end of the application process, the FCA would normally expect a firm to have obtained the reference before the application for approval is made.

(2) The main examples of circumstances in which it would be reasonable for a firm to delay getting a reference are where asking for a reference earlier will create a serious risk of:

(a) breaching the confidentiality of a wider commercial or corporate transaction;

(b) prematurely triggering the need for a public announcement; or

(c) the candidate not applying for the position in the first place because it would reveal to the candidate’s current employer the proposed move too soon.

(3) The FCA may consider that it needs to see the information in a reference before it reaches a decision. If so, it may formally ask for that information and extend the time period in which it has to make its decision until it gets the reference. SUP 10C.10.28G gives additional details about requests for further information and the effect they have on the period of time the FCA has to make a decision about an application.

(4) Full scope regulatory reference firms are reminded that the Act itself requires a firm to be satisfied that a candidate is fit and proper before it makes an application for approval (see SUP 10C.10.14G for more detail). SYSC 22.7.11G(2) does not affect that obligation.

22.8 Additional rules and guidance for all firms

Policies and procedures

22.8.1 R A firm must establish, implement and maintain policies and procedures that are adequate for the purpose of complying with the obligations in this chapter.

22.8.2 G SYSC 22.8.1R does not require a firm to create or keep records that are not
required under SYSC 22.9.1R (General record keeping rules) or another rule.

Appointed representatives

22.8.3 R This chapter applies to a firm’s appointed representatives as well as to the firm.

22.8.4 R When a relevant authorised person is permitting or appointing someone to perform a controlled function whose approval is given under SUP 10A.1.15R or SUP 10A.1.16R (appointed representatives of relevant authorised persons), the requirements of this chapter for firms that are not full scope regulatory reference firms apply in place of the requirements that only apply to full scope regulatory reference firms.

22.8.5 G A firm should ensure its appointed representative complies with the requirements of this chapter when the appointed representative appoints an approved person under SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives).

22.8.6 G (1) A firm should ensure that its appointed representative gives a reference when another firm (or its appointed representative) asks that appointed representative to give a reference in accordance with this chapter.

(2) A firm is not responsible for its appointed representative’s giving references if another principal has accepted responsibility for this.

Getting and giving a reference where the employee has worked in a group or on secondment

22.8.7 G If:

(1) a firm (A) is thinking of employing someone (P);

(2) P is employed by a group services company (D) that is not a firm;

(3) P (in their capacity as an employee of D) performs a function or service for a firm (B) in the same group as D such that P is also an employee of B; and

(4) A intends to appoint (P) to a position that entitles A to obtain a reference from B;

then:

(5) (if A is a full scope regulatory reference firm) A should ask both B and D for a reference;

(6) B is obliged to give the reference if A asks it to (whether or not A is a full scope regulatory reference firm);

(7) B should ask D to provide it with the information needed to provide
a reference in accordance with this chapter;

(8) D may give a reference but (as it is not a firm) it is not obliged to; and

(9) D and B may give a single joint reference.

22.8.8 G SYSC 22.8.7G also applies where:

(1) D is not in the same group but has seconded P to B; and

(2) P (in their capacity as an employee of D) performed any function or services for B such that P was also an employee of B.

22.8.9 G If:

(1) a firm (A) is thinking of appointing someone (P) to a position that entitles A to obtain a reference from another firm (B); and

(2) P was an employee of other members of B’s group as well as of B;

then:

(3) (if A is a full scope regulatory reference firm) A should ask all the group members that employed P for a reference;

(4) B should give a reference if A asks it to (whether or not A is a full scope regulatory reference firm);

(5) P’s employers in that group (including any that are not firms) may give a single joint reference; and

(6) if the reference is being provided on a consolidated group basis, it should be clear what information is relevant to which employer within the group.

22.9 Records

General record keeping rules (full scope regulatory reference firms only)

22.9.1 R (1) A full scope regulatory reference firm must arrange for orderly records to be created and kept that are sufficient to enable it to comply with the requirements of this chapter.

(2) This rule only applies to records in relation to the following questions in Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements):

(a) question (E) (fit and proper); and
(b) question (F) (disciplinary action).

Time limit for records to be kept (full scope regulatory reference firms only)

22.9.2 G SYSC 22.9.1R does not have an express time limit for which a firm should retain the records as its effect is that those time limits are the same as the time limits in SYSC 22 Annex 1 (Template for regulatory references given by relevant authorised persons and disclosure requirements).

Reduction in disclosure obligations where there are limited record keeping requirements (all firms)

22.9.3 R A firm does not breach the requirements of this chapter by failing to include information in a reference that it would otherwise have to include if:

(1) the reason for the omission is that the firm does not have the necessary records; and

(2) neither SYSC 22.9.1R nor any other requirement of or under the regulatory system requires the firm to have those records.

22.9.4 G If a firm is asked to give a reference in circumstances where the record keeping requirements in SYSC 22.9.1R do not apply:

(1) it is still required to give the reference;

(2) it should give the reference based on the records it does have; and

(3) it will not breach the requirements of this chapter by failing to include information in a reference if the reason for this is that it does not have the necessary records, as long as it is not required to have those records by some other requirement in the Handbook outside this chapter or some other requirement of or under the regulatory system.

Effect of previous record keeping requirements (full scope regulatory reference firms only)

22.9.5 G (1) SYSC 22.9.1R applies to keeping records created before the date this chapter came into force as well as ones created afterwards.

(2) A full scope regulatory reference firm does not breach the requirements of this chapter by failing to include something in a reference because it destroyed the relevant records before the date this chapter came into force in accordance with the record keeping requirements applicable to it at the time of destruction.
Guide to using this template:
Each question must be answered. Where there is nothing to disclose, this should be confirmed by ticking the “No” box for the relevant question.

In this template:
- “we” / “our firm” refers to the firm or firms giving the reference (as set out in either 1A or 1B below);
- “individual” refers to the subject of the reference (as set out in 2 below);
- “your” refers to the firm requesting the reference (as set out in 3 below)

<table>
<thead>
<tr>
<th>Information requested</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1A Name, contact details and firm reference number of firm providing reference; or</td>
<td></td>
</tr>
<tr>
<td>1B Names, contact details and firm reference numbers (where applicable) of group firms providing a joint reference</td>
<td></td>
</tr>
<tr>
<td>2 Individual’s name (i.e. the subject of the reference)</td>
<td></td>
</tr>
<tr>
<td>3 Name, contact details and firm reference number of firm requesting the reference</td>
<td></td>
</tr>
<tr>
<td>4 Date of request for reference</td>
<td></td>
</tr>
</tbody>
</table>
The answers to Questions A to F cover the period beginning six years before the date of your request for a reference and ending on the date of this reference

Question A

Has the individual:

(1) performed a specified significant harm function for our firm; or
(2) been an approved person for our firm.

Answer:

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Question B:

Has the individual performed one or more of the following roles in relation to our firm:

(1) notified non-executive director;
(2) credit union non-executive director; or
(3) key function holder (other than a controlled function).

Answer:

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
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</table>

Question C:

If we have answered ‘yes’ to either Question A or B above, we set out the details of each position held below, including:

(1) what the controlled function, specified significant-harm function or key function holder role is or was;
(2) (in the case of a controlled function) whether the approval is or was subject to a condition, suspension, limitation, restriction or time limit;
(3) whether any potential FCA governing function is or was included in a PRA controlled function; and
(4) the dates during which the individual held the position.

Answer:
Question D
Has the individual performed a role for our firm other than the roles referred to in Questions A and B above:

Answer:

Yes
No

If ‘yes’, we have provided summary details of the other role(s), e.g. job title, department and business unit, below.

Question E
Have we concluded that the individual was not fit and proper to perform a function:

Answer:

Yes
No

If ‘yes’ and associated disciplinary action was taken as a result, please refer to Question F below. If ‘yes’, and no associated disciplinary action was taken as a result, we have set out below the facts which led to our conclusion.

Question F
We have taken disciplinary action against the individual that:
(1) relates to an action, failure to act, or circumstances, that amounts to a breach of any individual conduct requirements that:

(a) apply or applied to the individual; or

(b) (if the individual is or was a key function holder, a notified non-executive director or a credit union non-executive director for your firm) the individual is or was required to observe under PRA rules (including if applicable, PRA rules in force before 7 March 2016); or

(2) relates to the individual not being fit and proper to perform a function.

Answer:

Yes
No

If ‘yes’, we have provided below a description of the breaches (including dates of when they occurred) and the basis for, and outcome of, the subsequent disciplinary action.

Question G
Are we aware of any other information that we reasonably consider to be relevant to your assessment of whether the individual is fit and proper? This disclosure is made on the basis that we shall only disclose something that:

(1) occurred or existed:

(a) in the six years before your request for a reference; or

(b) between the date of your request for the reference and the date of this reference; or

(2) is serious misconduct.

Answer:

Yes
No

If ‘yes’, we have provided the relevant information below.
### Part Two: Definitions used in Part One

Section One of Part Two of this annex defines terms used in this annex.

Section Two of Part Two of this annex modifies the meaning of certain requirements in Part One and has material about completing the template.

<table>
<thead>
<tr>
<th>Defined term or phrase</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>B refers to the <em>employer or ex-employer</em> giving the reference as defined in more detail in SYSC 22.2.1R and SYSC 22.2.2R.</td>
</tr>
<tr>
<td>P</td>
<td>P refers to the <em>employee or ex-employee</em> about whom the reference is given as defined in more detail in SYSC 22.2.1R and SYSC 22.2.2R.</td>
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</tbody>
</table>

A finding or conclusion by B that P was not fit and proper to perform a function (see questions (E) to (F) of the template)

- **This means** a finding or conclusion by B in the following circumstances where:
  - (a) B assesses the continuing fitness and propriety of P as an *approved person* in accordance with the requirements of the regulatory system, including when carrying out this assessment under section 63(2A) of the Act (annual assessment of approved persons by a relevant authorised person); or
  - (b) B assesses the fitness and propriety of P when B is proposing to issue a certificate under section 63F of the Act (Certification of employees by relevant authorised persons) for P.

Paragraph (b) applies whether the certificate is being issued for the first time or is being renewed.

<table>
<thead>
<tr>
<th>Individual conduct requirements</th>
<th>Individual conduct requirements mean any of the following:</th>
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<tbody>
<tr>
<td></td>
<td>(a) <em>COCON</em>;</td>
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<td></td>
<td>(b) <em>APER</em>;</td>
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<tr>
<td></td>
<td>(c) the PRA’s Individual Conduct Standards or Senior Insurance Manager Conduct Standards (in Chapter 3 of the Part of the</td>
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</table>
**PRA Rulebook** called Solvency II Firms: Insurance – Conduct Standards and in Chapter 3 of the Part of the **PRA Rulebook** called Non-Solvency II Firms: Large Non-Solvency II Firms – Conduct Standards;  

(d) the PRA’s Individual Conduct Rules or Senior Manager Conduct Rule (in Chapters 2 and 3 of the Part of the **PRA Rulebook** called CRR Firms: Conduct Rules and in Chapters 2 and 3 of the Part of the **PRA Rulebook** called Non-CRR Firms: Conduct Rules); or  

(e) the PRA’s Conduct Standards (in Chapter 3 of the Part of the **PRA Rulebook** called CRR Firms: Fitness and Propriety and Chapter 3 of the Part of the **PRA Rulebook** called Non-CRR Firms: Fitness and Propriety).

<table>
<thead>
<tr>
<th>Function (as referred to in questions (E) to (F))</th>
<th>A function means a function as an approved person or certification employee.</th>
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<tbody>
<tr>
<td>Disciplinary action</td>
<td>Disciplinary action has the same meaning as in section 64C(2) of the Act (Requirement for relevant authorised persons to notify regulatory of disciplinary action), which is:</td>
</tr>
<tr>
<td></td>
<td>(a) the issue of a formal written warning; or</td>
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<tr>
<td></td>
<td>(b) the suspension or dismissal of P; or</td>
</tr>
<tr>
<td></td>
<td>(c) the reduction or recovery of any of P’s remuneration.</td>
</tr>
<tr>
<td>This definition applies even if B is not a relevant authorised person.</td>
<td></td>
</tr>
<tr>
<td>Notified non-executive director, credit union non-executive director and key function holder</td>
<td>These terms have the same meaning as they do in the <strong>PRA Rulebook</strong>.</td>
</tr>
<tr>
<td>Specified significant harm function, approved person, controlled function and PRA controlled function</td>
<td>These terms have the same meaning as they do in the Glossary.</td>
</tr>
<tr>
<td>Potential FCA governing function</td>
<td>Potential FCA governing function means a function:</td>
</tr>
<tr>
<td></td>
<td>(a) that would have been an FCA controlled function but for:</td>
</tr>
<tr>
<td></td>
<td>(i) <strong>SUP</strong> 10A.11 (Minimising overlap with the PRA approved persons regime); or</td>
</tr>
<tr>
<td></td>
<td>(ii) <strong>SUP</strong> 10C.9 (Minimising overlap with the PRA</td>
</tr>
</tbody>
</table>
approved persons regime); (b) but instead is included in a *PRA controlled function* under the following parts of the *PRA Rulebook*:

(i) Part 2 of “Senior management functions”;  
(ii) Part 2 of “Insurance – Senior Insurance Management Functions”;  
(iii) Part 6 of “Solvency II Firms: Senior Insurance Managers Regime – Transitional Provisions”; or  
(iv) Part 6 of “Non-Solvency II Firms: Large Non-Solvency II Firms – Senior Insurance Managers Regime – Transitional Provisions.”

**Section Two: Supplementary requirements**

<table>
<thead>
<tr>
<th>Item of template for which supplemental requirements apply</th>
<th>Supplemental requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questions (E) and (F)</td>
<td>If:</td>
</tr>
<tr>
<td></td>
<td>(a) the finding or disciplinary action was reached or taken by another member of B’s group with the authority to do so; and</td>
</tr>
<tr>
<td></td>
<td>(b) the finding or disciplinary action relates to conduct by P relating to the carrying on of activities (whether or not <em>regulated activities</em>) by B;</td>
</tr>
<tr>
<td></td>
<td>this question applies to such finding or disciplinary action in the same way as it does to findings or disciplinary action made or taken by the <em>firm</em> itself.</td>
</tr>
<tr>
<td>Question (F)</td>
<td>This question is subject to SYSC TP 5.4.5R (where there is no need to disclose disciplinary action that took place before certain dates if the <em>firm’s</em> records do not show whether there was a breach of individual conduct requirements).</td>
</tr>
<tr>
<td>The whole of Part One of this annex</td>
<td>The template to be used by a <em>firm</em> in giving a reference includes everything in Part One of this annex except for the “Guide to using this template” paragraph.</td>
</tr>
</tbody>
</table>
### Factors to take into account when asking for and giving regulatory references

<table>
<thead>
<tr>
<th>Matters to take into account</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Any outstanding liabilities of that person from commission payments</td>
<td></td>
</tr>
<tr>
<td>(B) Any relevant outstanding or upheld complaint from an <em>eligible complainant</em> against P</td>
<td></td>
</tr>
<tr>
<td>(C) Section 5 of the relevant Form A in <em>SUP 10A Annex 4</em> (Application to perform controlled functions under approved persons regime) or <em>SUP 10C Annex 2</em> (Application to perform senior management functions)</td>
<td></td>
</tr>
<tr>
<td>(D) <em>FIT 2</em> (Main assessment criteria)</td>
<td></td>
</tr>
<tr>
<td>(E) The persistency of any life policies sold by P</td>
<td>This only applies if <em>SUP 16.8.1G(1) (Persistency reports from insurers) applies to B</em></td>
</tr>
</tbody>
</table>

**Note:** P refers to the *employee or ex-employee* about whom the reference is given as defined in more detail in *SYSC 22.2.1R* and *SYSC 22.2.2R*. 
Amend the following as shown.

TP 5  Financial Services (Banking Reform) Act 2013: Certification and regulatory references

Purpose of SYSC TP 5

5.1.1 G SYSC TP 5:

(1) explains how the certification regime described in SYSC 5.2 applies during the transitional period between 7 March 2016 and 7 March 2017 described in SYSC TP 5.3.1G; and

(2) has certain transitional provisions dealing with SYSC 22 (Regulatory references).

5.1.2 G SYSC TP 5 deals with transitional issues that relate to changes to the Handbook that come into force in 2016 and 2017.

Application

5.2.1 G (1) All of SYSC TP 5 applies to relevant authorised persons.

(2) SYSC TP 5.1, SYSC TP 5.2 and SYSC TP 5.5 apply to all firms.

Certification: The transitional period

...  

5.3.4 G ...

<table>
<thead>
<tr>
<th>Provision in the Act or the Handbook</th>
<th>What that provision is about</th>
<th>How it applies in the transitional period</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Transitional provisions about regulatory references: Full scope regulatory reference firms

5.4.1 R (1) If on 7 March 2017 an employee (P) is already performing a specified significant-harm function for a relevant authorised person (A), the obligation under SYSC 22 (Regulatory references) for A to obtain a reference when issuing a certificate for P for that significant-harm function does not apply.

(2) Paragraph (1) ceases to apply if there has been a significant change in P’s responsibilities forming part of that specified significant-harm function as compared to the position on 7 March 2017.
5.4.2 R  
**SYSC 22.2.1R (Obligation to obtain a regulatory reference) does not apply to an application for approval as an approved person that is made before 7 March 2017 but that has not yet been finally determined by that date.**

5.4.3 G  
(1)  
**SYSC 22.7.5G to SYSC 22.7.8G (Asking for a reference to be updated) deal with a full scope regulatory reference firm (A) that is obliged to get a reference from an ex-employer (B) and wants to rely on one that B has already given A.**

(2)  
The SYSC material referred to in (1) can apply where the reference was given before 7 March 2017.

(3)  
One relevant factor is whether B is a full scope regulatory reference firm. This is because the FCA requirements about firms asked to give regulatory references that applied to firms that are not full scope regulatory reference firms before 7 March 2017 were similar to those in SYSC 22. As such, the existing reference may already be sufficient.

(4)  
The main difference between the requirements for a firm that is not a full scope regulatory reference firm before and after 7 March 2017 is that the range of functions for which A is entitled to ask for a reference was widened. For example, there was no obligation to supply a reference for a certification employee before then.

5.4.4 G  
**SYSC 22.2.4R (Obligation to revise references) does not apply to references given before 7 March 2017.**

5.4.5 R  
**Question (F) (disciplinary action) in Part One of SYSC 22 Annex 1R (Template for regulatory references given by relevant authorised persons and disclosure requirements) does not require disclosure of breaches of individual conduct requirements referred to in question (F) if the disciplinary action referred to in that item took place before:**

(1) (in the case of a relevant authorised person) 7 March 2016; or

(2) (in the case of any other full scope regulatory reference firm) 7 March 2017;

if the firm’s records do not show whether the conduct that was subject to disciplinary action amounted to a breach of those individual conduct requirements.

Transitional provisions about regulatory references: All firms

5.5.1 R  
**If a firm (A) asks another firm (B) for a reference before 7 March 2017, SYSC 22 (Regulatory references) applies to B if B gives the reference after that date.**

5.5.2 G  
**SYSC 22 applies to a reference requested or given after 7 March 2017 even if the matters covered by the reference occurred before then.**
### Sch 1  Record keeping requirements

#### Sch 1.2G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>SYSC 14.1.53R</td>
<td>...</td>
<td>...</td>
<td>...</td>
<td>Not specified</td>
</tr>
<tr>
<td>SYSC 22.9.1R</td>
<td>Employment history of employees</td>
<td>As specified in the rule in column 1</td>
<td>Not specified</td>
<td>As specified in SYSC 2.9.2G</td>
</tr>
</tbody>
</table>

### Sch 5  Rights of actions for damages

#### Sch 5.4G

<table>
<thead>
<tr>
<th>Chapter/Appendix</th>
<th>Section/Annex</th>
<th>Paragraph</th>
<th>Rights of action under section 138D</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>For private person?</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SYSC 11 to SYSC 19A, and SYSC 19D</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>SYSC 22</td>
<td></td>
<td>Yes (apart from SYSC 22.8.1R and SYSC 22.8.1R)</td>
<td>No (apart from SYSC 22.8.1R and SYSC 22.8.1R)</td>
</tr>
<tr>
<td>22.9.1R)</td>
<td>SYSC 22.9.1R)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>---------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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Annex C

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

10A FCA Approved Persons

…

10A.15 References and accurate information

References

10A.15.1 If SYSC 22 (Regulatory references) says that if a firm (A):

(a) is considering appointing a person (P) to perform any FCA controlled function or certain other functions;

(b) requests another firm (B), as a reference from a firm (B) that is P’s current or former employer of that person, for a reference or other information in connection with that appointment employer; and

(c) indicates to B the purpose of the request;

B must should, as soon as reasonably practicable, give a reference to A all relevant information of which it is aware.

(2) This applies even if A is a firm to which SUP 10C (FCA senior management regime for approved persons in relevant authorised persons) applies rather than this chapter. When giving the information to A under (1), B must have regard to the purpose of the request and, in particular, to:

(a) any outstanding liabilities of that person from commission payments;

(b) any relevant outstanding or upheld complaint from an eligible complainant against that person;

(e) section 5 of the relevant Form A in SUP 10A Annex 4 (Application to perform controlled functions under approved persons regime);

(d) FIT 2 (Main assessment criteria); and

(e) if SUP 16.8.1G(1) (Persistency reports from insurers) applies
to B, the persistency of any life policies sold by that person.

(3) SYSC 22 also requires certain insurers to get a reference before applying to have someone approved as an approved person.

10A.15.2 G The requirement in SUP 10A.15.1R(1) for firm (B) to give to firm (A) all relevant information of which it is aware concerning a person firm A is considering appointing to perform any of the FCA controlled functions, also applies where firm A has outsourced the collection of that information to another (unregulated) third party, where firm B has been made aware that the unregulated third party is acting on behalf of firm A. [deleted]

10A.15.3 G A firm supplying a reference in accordance with SUP 10A.15.1R owes a duty to its former employee and the recipient firm to exercise due skill and care in the preparation of the reference. The reference should be accurate and based on documented fact. The firm may give frank and honest views, but only after taking reasonable care both as to factual content, and as to the opinions expressed, and verifying the information upon which they are based. [deleted]

10A.15.3 A SUP 10A.15.1R applies even if A (the firm asking for a reference) is a firm to which SUP 10C (FCA senior management regime for approved persons in relevant authorised persons) applies rather than this chapter. [deleted]

The need for complete and accurate information

10A.15.4 G The obligations to supply information to:

(1) the FCA under either SUP 10A.14.8R or SUP 10A.14.10R;

(2) another firm under SUP 10A.15.1R;

apply notwithstanding any agreement (for example a “COT 3” Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS)) or any other arrangements entered into by a firm and an employee upon termination of the employee's employment. A firm should not enter into any such arrangements or agreements that could conflict with its obligations under this section.

...
References and accurate information

References

10C.16 References and accurate information

10C.16.1 R G

(1) If SYSC 22 (Regulatory references) says that if a firm (A):

(a) is considering appointing a person (P) to perform any FCA controlled function or certain other functions;

(b) requests another firm (B), as a reference from a firm (B) that is P’s current or former employer of that person, for a reference or other information in connection with that appointment employer; and

(c) indicates to B the purpose of the request;

B must should, as soon as reasonably practicable, give a reference to A all relevant information of which it is aware.

(2) This applies even if A is a firm to which SUP 10A (FCA Approved Persons) applies rather than this chapter. When giving the information to A under (1), B must have regard to the purpose of the request and, in particular, to:

(a) any outstanding liabilities of that person from commission payments;

(b) any relevant outstanding or upheld complaint from an eligible complainant against that person;

(c) section 5 of the relevant Form A in SUP 10A Annex 4 (Application to perform controlled functions under approved persons regime);

(d) FIT 2 (Main assessment criteria); and

(e) if SUP 16.8.1G(1) (Persistency reports from insurers) applies to B, the persistency of any life policies sold by that person.

10C.16.2 G SYSC 22 also requires firms to get a reference before applying to have someone approved as an approved person.

The requirement in SUP 10C.16.1R(1) for firm (B) to give to firm (A) all relevant information of which it is aware concerning a person firm A is considering appointing to perform any of the FCA controlled functions, also applies where firm A has outsourced the collection of that information to another (unregulated) third party, where firm B has been made aware that the unregulated third party is acting on behalf of firm A.
10C.16.3 G A firm supplying a reference in accordance with SUP 10C.16.1R owes a duty to its former employee and the recipient firm to exercise due skill and care in the preparation of the reference. The reference should be accurate and based on documented fact. The firm may give frank and honest views, but only after taking reasonable care both as to factual content, and as to the opinions expressed, and verifying the information upon which they are based. [deleted]

10C.16.4 G SUP 10C.16.1R applies even if A (the firm asking for a reference) is a firm to which SUP 10A (FCA approved persons) applies rather than this chapter. [deleted]

The need for complete and accurate information

10C.16.5 G (1) The obligations to supply information to:
(a) the FCA under this chapter;
(b) another firm under SUP 10C.16.1R; [deleted]
apply notwithstanding any:
(c) …
…
…

Amend the following forms as shown.

10A Form A: Application to perform controlled functions under the approved person regime

Annex 4D
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:

http://handbook.fca.org.uk/handbook/SUP/10A/Annex4
http://www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

Long Form A – Solvency II firms only

Application to perform controlled functions

FCA Handbook Reference: SUP 10A Annex 4D
PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime - Applications and Notifications
Fitness and Propriety  Section 5

5.05 Other Matters

5.05.5 For PRA functions only: Has/Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA as set out in 2.5 in Insurance-Fitness and Propriety or FCA?

If No, please provide details why the reference or references has/have not been obtained.

Please note that for candidates for PRA controlled functions, a firm is required to take reasonable steps to obtain appropriate references from any current or previous employer of the candidate or at any organisation at which the candidate is or was a non-executive director during the last 6 years (see SYSC 22 and Insurance- Fitness and Propriety 2.5 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:

http://handbook.fca.org.uk/handbook/SUP/10A/Annex4
http://www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

**Short Form A – Solvency II firms only**

**Application to perform controlled functions**

*FCA Handbook Reference: SUP 10A Annex 4D*

*PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime - Applications and Notifications*
5.05.5 For PRA functions only: Has / Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA as set out in 2.5 in Insurance - Fitness and Propriety and FCA?
If No, please provide details why the reference or references has/have not been obtained.

Please note that for candidates for PRA controlled functions, a firm is required to use reasonable efforts to obtain a reference from any previous employer of the candidate, or any organisation at which the candidate is or was a non-executive director during the last 5 6 years (see SYSC 22 and Insurance - Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:

- http://www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing their answers to the questions in this form.

**Long Form A – Large non-directive insurers only**

**Application to perform controlled functions**

*FCA Handbook Reference: SUP 10A Annex 4D*

*PRA Rulebook Reference: Large Non-Solvency II Firms: Senior Insurance Managers Regime – Applications and Notifications*

7 March 2016
5.05 Other Matters

For PRA functions only: Has / Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA as set out in 2.5 in Large Non-Solvency II Firms: Fitness and Propriety or FCA?

If No, please provide details why the reference or references has/have not been obtained.

Please note that for candidates for PRA controlled functions, a firm is required to take reasonable steps to obtain appropriate references from any current or previous employer of the candidate, or at any organisation at which the candidate is or was a non-executive director during the last 6-8 years (see SYSC 22 and Large Non-Solvency II Firms- Fitness and Propriety 2.5 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:

http://www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

**Short Form A – Large non-directive insurers only**

**Application to perform controlled functions**

*FCA Handbook Reference: SUP 10A Annex 4D*

*PRA Rulebook Reference: Large Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications*

7 March 2016
Parts 5.01 to 5.05.3 of this section have been removed. However if there has been a change to the detail in this section since your last approval, you must submit a Long Form A as opposed to a Short Form A informing the FCA and/or PRA of the revised detail.

5.05.5

For PRA functions only: Has / Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA as set out in Large Non-Solvency II Firms - Fitness and Propriety 2.5 or FCA?

If No, please provide details why the reference or references has/have not been obtained.

Please note that for candidates for PRA controlled functions, a firm is required to use take reasonable efforts to obtain a reference from any current previous employer of the candidate, or any organisation at which the candidate is or was a non-executive director during the last 6 years (see Large Non-Solvency II Firms - Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.
Amend the following forms as shown.

10A Form E: Internal transfer for an approved person
Annex 8D
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on the FCA and PRA’s websites at 
www.bankofengland.co.uk/PRA
Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

Form E
Internal transfer of an approved person (for Solvency II firms only)
FCA Handbook Reference: SUP 10A Annex 8D
PRA Rulebook Reference: Solvency II firms: Senior Insurance Managers Regime – Applications and Notifications

...
Has / Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA or FCA?
If No, please provide details why the reference or references has/have not been obtained.

Please note that a firm is required to take reasonable steps to obtain appropriate references from any current or previous employer of the candidate during the last 6 years (see SYSC 22 and Insurance: Fitness and Propriety 2.5 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on the FCA and PRA's websites at https://www.handbook.fca.org.uk/handbook/SUP/10A/Annex8.html
www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

**Form E**

**Internal transfer of an approved person (for large non-directive insurers only)**

*FCA Handbook Reference: SUP 10A Annex 8D*

*PRA Rulebook Reference: Large Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications*

…
4.05 Has / Have a reference or references been obtained from current and previous employer(s) in accordance with the requirements of the PRA or FCA?

If No, please provide details why the reference or references has/have not been obtained.

*Please note that a firm is required to take reasonable steps to obtain appropriate references from any current or previous employer of the candidate during the last 6 years (see SYSC 22 and Insurance-Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.*
Amend the following forms as shown.

10C  Form A: Application to perform senior management functions
Annex 2D
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:
http://www.bankofengland.co.uk/PRA
Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

Long Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Application to perform senior management functions
FCA Handbook Reference: SUP 10C Annex 2D
PRA Rulebook Reference: Senior Managers Regime - Applications and Notifications

7 March 20167

...
5.05 Other Matters

Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA or PRA?

If No, please provide details why the reference or references has/have not been obtained.

Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22 and Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.

I have supplied further information related to this page in Section 6?

YES □  NO □
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on both FCA and PRA websites at:
http://www.bankofengland.co.uk/PRA
Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

Short Form A –UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

Application to perform senior management functions
FCA Handbook Reference: SUP 10C Annex 2D
PRA Rulebook Reference: Senior Managers Regime - Applications and Notifications

7 March 2016

... 

**Fitness and Propriety Section 5**

This section has largely been removed. However if there has been a change to the detail in this section since your last approval, you must submit a Long Form A as opposed to a Short Form A informing the FCA and/or PRA of the revised detail.

5.1 Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA or PRA. If No, please provide details why the reference or references has/have not been obtained.

YES □ NO □
Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22 and Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.

⇒ I have supplied further information related to this page in Section 6

YES ☐ NO ☐
The FCA has produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on the FCA website at:


Both the applicant and the candidate will be treated by the FCA as having taken these notes into consideration when completing this form.

**Short Form A – EEA Relevant Authorised Persons Only**

**Application to perform senior management functions**

*FCA Handbook Reference: SUP 10C Annex 2D*

7 March 2016

...

**Fitness and Propriety Section 5**

This section has largely been removed. However if there has been a change to the detail in this section since your last approval, you must submit a Long Form A as opposed to a Short Form A informing the FCA and/or PRA of the revised detail.

**5.1** Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA or PRA. If No, please provide details why the reference or references has/have not been obtained.

*Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22). “Employer” has an extended meaning for these purposes.*
I have supplied further information related to this page in Section 6  YES ☐  NO ☐
The FCA has produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on the FCA Handbook website at: https://www.handbook.fca.org.uk/handbook/SUP/10C/Annex2D.html
Both the applicant and the candidate will be treated by the FCA as having taken these notes into consideration when completing their answers to the questions in this form.

**Long Form A – EEA Relevant Authorised Persons only**

Application to perform senior management functions

*FCA Handbook Reference: SUP 10C Annex 2D*

7 March 20167

...

**Fitness and propriety**

Section 5

...

**5.05 Other Matters**

...

5.05.4 Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA or PRA?

If No, please provide details why the reference or references has/have not been obtained.

*Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22). “Employer” has an extended meaning for these purposes.*

…Amend the following form as shown.

I have supplied further information related to this page in Section 6

**10C**

Form E: Internal transfer of an approved person (for firms and individuals subject to the senior management regime)
The FCA and PRA have produced notes which will assist both the applicant and the candidate in answering the questions in this form. Please read these notes, which are available on the FCA and PRA’s websites at https://www.handbook.fca.org.uk/handbook/SUP/10C/Annex3D.html www.bankofengland.co.uk/PRA

Both the applicant and the candidate will be treated by the FCA and PRA as having taken these notes into consideration when completing this form.

Form E
Internal transfer of an approved person (for firms and individuals subject to the senior management regime)
FCA Handbook Reference: SUP 10C Annex 3D
PRA Rulebook Reference: Senior Managers Regime - Applications and Notifications
7 March 2016

...
4.05 Has / Have a reference or references been obtained from current or previous employer(s) in accordance with the requirements of the FCA or PRA. If No, please provide details why the reference or references has/have not been obtained.

Please note that a firm is required to use reasonable steps to obtain an appropriate reference from any current or previous employer of the candidate during the last 6 years (see SYSC 22 and Fitness and Propriety 2 in the PRA Rulebook). “Employer” has an extended meaning for these purposes.