

**INDIVIDUAL ACCOUNTABILITY (FCA-AUTHORISED BENCHMARK FIRMS)
INSTRUMENT 2020**

Powers exercised

A. The Financial Conduct Authority (“the FCA”) 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 55U (Applications under this Part);
- (2) section 59 (Approval for particular arrangements);
- (3) section 59AB(1) (Specifying functions as controlled functions: transitional provision);
- (4) section 60 (Applications for approval);
- (5) section 60A (Vetting candidates by authorised persons);
- (6) section 61 (Determination of applications);
- (7) section 62A (Changes to responsibilities of senior managers);
- (8) section 63ZA (Variation of senior manager’s approval at request of authorised person);
- (9) section 63ZD (Statement of policy relating to conditional approval and variation);
- (10) section 63C (Statement of policy);
- (11) section 63E (Certification of employees by authorised persons);
- (12) section 63F (Issuing of certificates);
- (13) section 64A (Rules of conduct);
- (14) section 64C (Requirements for authorised persons to notify regulator of disciplinary action);
- (15) section 69 (Statement of policy);
- (16) section 137A (The FCA’s general rules);
- (17) section 137T (General supplementary powers);
- (18) section 138D (Action for damages);
- (19) section 139A (Power of the FCA to give guidance);
- (20) section 347 (The record of authorised persons etc);
- (21) section 395 (The FCA’s and PRA’s procedures);
- (22) paragraph 23 of Schedule 1ZA (Fees); and
- (23) regulations 5 and 6 of the Bank of England and Financial Services Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2019 (S.I. 2019/1136).

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 December 2020 except as follows:

Annex	Date comes into force
Part 1 of Annex B	3 June 2020
Part 1 of Annex H	3 June 2020

Annex I	3 June 2020
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Amendments to the Handbook

- D. The FCA’s Handbook of rules and guidance is amended in accordance with paragraph E of this instrument.
- E. 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:

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Code of Conduct sourcebook (COCON)	Annex C
Threshold Conditions sourcebook (COND)	Annex D
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex E
Fit and Proper test for Employees and Senior Personnel sourcebook (FIT)	Annex F
Market Conduct sourcebook (MAR)	Annex G
Supervision manual (SUP)	Annex H
Professional Firms sourcebook (PROF)	Annex I

Amendments to material outside the Handbook

- F. The General guidance on Benchmark Administration, Contribution and Use is amended in accordance with Annex J to this instrument.

Citation

- G. This instrument may be cited as the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.

By order of the Board
21 May 2020

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 definitions in the appropriate alphabetical position. The text is not underlined.

APER employer (in relation to an *approved person* whose approval is given under *SUP 10A* (FCA Approved Persons in Appointed Representatives)):

- (a) the *appointed representative* in relation to which that *approved person* performs the *controlled function* in *SUP 10A*; and
- (b) the *authorised approved person employer*.

[Note: In accordance with *APER 3.1.10R*, for the purposes of *Statements of Principle 5 to 7*, an *APER employer* only includes (a).]

limited scope SMCR benchmark firm has the meaning in *SYSC 23 Annex 1 6.12R*, and in summary means a *pure benchmark SMCR firm* that is subject to a *waiver* that treats the *firm* as a *limited scope SMCR firm*.

pure benchmark SMCR firm has the meaning in *SYSC 23 Annex 1 6.13R(1)(b)*, and in summary means an *SMCR firm* that has *permission* to carry on the *regulated activity* of *administering a benchmark* but no other *regulated activity*.

Amend the following definitions as shown.

accountable functions (in relation to an *approved person*) the functions described in *APER 1.1A.2R*, which are in summary:

- (a) *FCA controlled functions* under *SUP 10A* (FCA Approved persons in Appointed Representatives); and

...

advising on investments

- (1) (except in *SUP 10A* (FCA Approved Persons in Appointed Representatives), *SYSC 27* (Senior managers and certification regime: Certification regime), *APER* and *CONRED 2*) the *regulated activities*, specified in article 53(1) to (1D) and article 53(2) of the *Regulated Activities Order* (Advising on investments), which are:
 - (a) *advising on investments (except P2P agreements);* and
 - (b) *advising on P2P agreements.*
- (2) (in *SUP 10A* (FCA Approved Persons in Appointed Representatives), *SYSC 27* (Senior managers and certification regime: Certification regime) and *APER*) the *regulated activities* specified in article 53(1) to (1D) and 53(2) (Advising on investments) of the *Regulated Activities Order*. For these purposes, *advising on investments* includes any activities that would be included but for the exclusion in article 72AA (Managers of UCITS and AIFs) of the *Regulated Activities Order*.

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certification employee

...

- (3) (in relation to an *SMCR firm* that is an *FCA-authorised person (other than a pure benchmark SMCR firm and any other SMCR firm to which SYSC 27 (Senior managers and certification regime: Certification regime) does not apply)* and subject to *SYSC TP 8* (Bank of England and Financial Services Act 2016: Application to claims management companies)) an employee (as defined in section 63E of the *Act*) of an *SMCR firm* who performs a *certification function* under an arrangement entered into by the *SMCR firm* in relation to the carrying on by the *SMCR firm* of a *regulated activity*, even though the obligation of the *SMCR firm* to issue a certificate under section 63F of the *Act* has not yet come into force.

[Note: Paragraph (3) of this definition applies until 9 December 2020.]

chief executive function

- (1) ...
- (2) (~~for other firms and~~ in relation to an *appointed representative*) *FCA controlled function CF3* in the table of FCA controlled functions, described more fully in *SUP 10A.6.17R*.

<i>controlled function</i>	<p>a function, relating to the carrying on of a <i>regulated activity</i> by a <i>firm</i>, which is specified by:</p> <p>(a) either the <i>FCA</i> in:</p> <p style="padding-left: 40px;">(i) (for <i>SMCR firms</i>) the <i>table of FCA-designated senior management functions</i>; or</p> <p style="padding-left: 40px;">(ii) (for other firms and in relation to <i>appointed representatives</i>) the <i>table of FCA controlled functions</i>; or</p> <p style="padding-left: 40px;">...</p>
<i>director</i>	<p>(1) ...</p> <p style="padding-left: 40px;">(c) (in <i>SYSC</i>, <i>APER</i>, <i>COCON</i>, <i>MIPRU 2</i> (Responsibility for insurance distribution and <i>MCD</i> credit intermediation activity), <i>SUP 10A</i> (FCA Approved persons <u>in Appointed Representatives</u>) and <i>SUP 10C</i> (FCA senior managers regime for approved persons in <i>SMCR firms</i>) a <i>partnership</i>;</p> <p style="padding-left: 40px;">(d) (in <i>SYSC</i>, <i>SUP 10A</i> (FCA Approved persons <u>in Appointed Representatives</u>) and <i>SUP 10C</i> (FCA senior managers regime for approved persons in <i>SMCR firms</i>) a <i>sole trader</i>;</p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">...</p>
<i>FCA controlled function</i>	<p>a <i>controlled function</i> which is specified by the <i>FCA</i> under section 59 of the <i>Act</i> (Approval for particular arrangements) in:</p> <p>(a) (for <i>SMCR firms</i>) the <i>table of FCA-designated senior management functions</i>; or</p> <p>(b) (for other firms and in relation to <i>appointed representatives</i>) the <i>table of FCA controlled functions</i>.</p>
<i>FCA significant-influence functions</i>	<p>any of the <i>FCA controlled functions</i> 1 to 29 in Part 1 or Part 2 of <u>labelled as an FCA significant-influence function in the table of FCA controlled functions</u>.</p>
<i>partner function</i>	<p>(1) ...</p> <p>(2) (for other firms and in relation to <i>appointed representatives</i>) <i>FCA controlled function</i> CF4 in the <i>table of FCA controlled functions</i>, described more fully in <i>SUP 10A.6.23R</i> to <i>SUP 10A.6.27R</i>.</p>

<i>proprietary trader</i>	(in SYSC 27 (Senior managers and certification regime: Certification regime), SUP 10A (FCA Approved Persons) , and COCON and APER) a <i>person</i> (A) whose responsibilities include committing another <i>person</i> (B) as part of B's <i>proprietary trading</i> .
<i>proprietary trading</i>	(in SYSC 27 (Senior managers and certification regime: Certification regime), SUP 10A (FCA Approved Persons) , and COCON and APER) <i>dealing in investments as principal</i> as part of a business of trading in <i>specified investments</i>
<i>significant-influence function</i>	<u>has the meaning in SUP 10A.5.3R (Definition of FCA significant-influence function), which in summary defines it as (for the purposes of <i>controlled functions</i> specified in the <i>table of FCA controlled functions</i> and in relation to the carrying on of a <i>regulated activity</i> by an authorised person <i>appointed representative</i>) a function that is likely to enable the <i>person</i> responsible for its performance to exercise a significant influence on the conduct of the authorised person's <i>appointed representative's</i> affairs, so far as relating to the activity.</u>

Delete the following definition. The text is not shown struck through.

<i>significant management function</i>	<i>FCA controlled function</i> CF29 in the <i>table of FCA controlled functions</i> , described more fully in SUP 10A.9.9R.
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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.

Part 1: Comes into force 3 June 2020

22 Regulatory references

22.1 Application

General application

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

...

23 Senior managers and certification regime: Introduction and classification

...

23.3 Overview of the senior managers and certification regime

...

23.3.3 G Table: Summary of the senior managers and certification regime

(1) Description of component of the regime	(2) Handbook provisions	(3) Application to solo-regulated firms
...
The senior managers regime: Parts that only apply to a limited range of firms		
...
<i>Firms</i> should report changes to their <i>management body</i> when members who are not <i>SMF managers</i> leave or join it.

<p><u>A firm is required to maintain a clear and appropriate apportionment of significant responsibilities among its directors and senior managers</u></p>	<p><u>SYSC 4.4 (Apportionment of responsibilities)</u></p>	<p><u>Applies to a limited scope SMCR firm.</u> <u>Does not apply to most core SMCR firms.</u> <u>Does not apply to an enhanced scope SMCR firm.</u></p>
<p>...</p>	<p>...</p>	<p>...</p>
<p>The certification regime</p>		
<p>...</p>	<p>...</p>	<p>Applies to all solo-regulated firms except for internally managed AIFs and certain firms that only carry out benchmark activities. <u>The certification regime does not apply to benchmark activities.</u></p>
<p>...</p>	<p>...</p>	<p>...</p>

Part 2: Comes into force 7 December 2020

4 General organisational requirements

4.1 General requirements

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Apportionment of responsibilities: the role of the non-executive director

- 4.1.14 G The role undertaken by a *non-executive director* will vary from one firm to another. ~~Where a non-executive director is an approved person, for example where the firm is a body corporate, his responsibility and therefore liability will be limited by the role that he undertakes.~~

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4.4 Apportionment of responsibilities

Application

4.4.1A R (-2) This section applies to:

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

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...

...

22 Regulatory references

22.1 Application

General application

...

22.1.1A G ~~SYSC TP 7.4.8R and SYSC TP 8.5.1R apply~~ applies this chapter to certain claims management and benchmark firms that are not *SMCR firms*.

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22.7 Getting references: additional rules and guidance

Who should be asked to give a reference

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22.7.4 G (1) ~~SYSC 22.2.1R (Obligation of an SMCR firm to try to obtain a reference)~~ applies even if the *ex-employer* is not a *firm*.

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22.8 Policies and appointed representatives

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- 22.8.4A R (1) The *approved person's authorised approved person employer* is responsible for compliance with SYSC 22.8.3R in the case of a requirement:
- (a) to give a reference about an *approved person* whose approval is under ~~SUP 10A.1.15R to SUP 10A.1.16BR~~ SUP 10A (FCA Approved Persons in Appointed Representatives); and

...

...

- 22.8.5 G One effect of SYSC 22.8.4R is that when an *appointed representative* appoints an *approved person* under ~~SUP 10A.1.16BR (appointed representatives of an SMCR firm)~~ SUP 10A (FCA Approved Persons in Appointed Representatives) there is no requirement for the *appointed representative* or its principal to request a reference.

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23 Senior managers and certification regime: Introduction and classification

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23.2 Definitions and types of firms

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- 23.2.3 G Broadly speaking, *firms* covered by the senior managers and certification regime that are regulated by the *FCA* are divided into three categories:

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- (3) *Firms* whose business is limited to certain types. These are called “*limited scope SMCR firms*”. A large number of *firms* will be in this category. The main examples are:

...

- (d) *firms* whose main business is not regulated and whose regulated business is (with limited exceptions) restricted to *insurance distribution activity* in relation to *non-investment insurance contracts*; ~~and~~
- (e) a *firm* that only has *regulated claims management activities* in its *permission*; and
- (f) a *firm* that only has *permission* for benchmark activities and has the benefit of a *waiver* treating it as a *limited scope*

SMCR firm as described in SYSC 23 Annex 1 6.12R
(Benchmark firms: Waiver applying limited scope status).

23.3 Overview of the senior managers and certification regime

...

23.3.3 G Table: Summary of the senior managers and certification regime

(1) Description of component of the regime	(2) Handbook provisions	(3) Application to solo-regulated firms
...
The senior managers regime: Parts that only apply to a limited range of firms		
...
A <i>firm</i> is required to maintain a clear and appropriate apportionment of significant responsibilities among its <i>directors</i> and <i>senior managers</i>	...	Applies to a <i>limited scope SMCR firm</i> , <u>except for a limited scope SMCR benchmark firm.</u> ...
<u>A limited scope SMCR benchmark firm</u> is required to report to the FCA certain changes in the split of its revenue between <i>regulated activities</i> and <i>unregulated activities</i>	<u>SUP 15.17 (Notification of regulated income by limited scope SMCR benchmark firm)</u>	Only applies to a <u>limited scope SMCR benchmark firm.</u> Does not apply to any other <u>limited scope SMCR firm.</u> Does not apply to a <u>core SMCR firm</u> or an <u>enhanced scope SMCR firm.</u>
...
The certification regime		

<p>A <i>firm</i> should not permit an <i>employee</i> to carry out certain functions (<i>certification functions</i>) unless it has issued them with a certificate.</p> <p>...</p>	<p>...</p>	<p>Applies to all solo-regulated <i>firms</i> except for internally managed <i>AIFs</i> and <u><i>pure benchmark SMCR firms</i></u>.</p> <p>...</p>
<p>...</p>	<p>...</p>	<p>...</p>
<p>A <i>firm</i> must report information to the <i>FCA</i> about its <i>Directory persons</i>, including its <i>certification employees</i>.</p>	<p><i>SUP</i> 16.26 (Reporting of information about <i>Directory persons</i>)</p>	<p>Applies to all <i>solo-regulated firms</i> <u>except <i>pure benchmark SMCR firms</i></u></p>
<p>...</p>	<p>...</p>	<p>...</p>

...

23 Annex 1 Definition of SMCR firm and different types of SMCR firms

Part One: Flow diagram and other basic provisions

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1.2 R Flow diagram: Types of SMCR firm

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Note to the flow diagram

The categorisation in this flow diagram is subject to *SYSC* 23 Annex 1 2.1R and *SYSC* 23 Annex 1 6.25R.

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Part Three: Definition of exempt firm

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3.7 R ~~A firm that has permission to carry on the regulated activity of administering a benchmark or administering a specified benchmark but no other regulated activity is an exempt firm. [deleted]~~

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Part Six: Definition of limited scope SMCR firm

Introduction

6.1 R ...

Opting up

6.2 G ...

Specialised activities

6.3 R ...

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Sole trader

6.6 R ...

Limited permission consumer credit firms

6.7 R ...

...

Authorised professional firms

6.9 R ...

Internally managed AIFs

6.10 R ...

Claims management

6.11 R ...

Benchmark firms: Waiver applying limited scope status

6.12 R A firm is a limited scope SMCR firm (and a limited scope SMCR benchmark firm) if:

- (1) it is subject to a waiver that applies this rule to the firm; and
- (2) it meets the conditions in SYSC 23 Annex 1 6.13R.

- 6.13 R (1) The conditions referred to in SYSC 23 Annex 1 6.12R(2) are that the *firm*:
- (a) is capable of being a *limited scope SMCR firm* under the flow diagram in SYSC 23 Annex 1 1.2R (Flow diagram: Types of SMCR firm);
- (b) has *permission* to carry on the *regulated activity of administering a benchmark* but no other *regulated activity* (a *pure benchmark SMCR firm*); and
- (c) is an *FCA-authorised person*.
- (2) A *firm* that meets the conditions in this *rule* is referred to in this Annex as a “potential benchmark waiver firm”.
- 6.14 G (1) If, after the *waiver* in SYSC 23 Annex 1 6.12R(1) comes into force, a *firm* ceases to be a potential benchmark waiver firm it immediately ceases to be:
- (a) a *limited scope SMCR benchmark firm*; and
- (b) a *limited scope SMCR firm* (unless it qualifies as one for another reason).
- (2) (1) applies even if the *firm* subsequently becomes a potential benchmark waiver firm again.
- (3) If (2) applies, it may become a *limited scope SMCR benchmark firm* again if it applies for and obtains a new *waiver*.

Benchmark firms: When the waiver is likely to be available

- 6.15 G (1) The *FCA* considers that treating a potential benchmark waiver firm (as defined in SYSC 23 Annex 1 6.13R(2)) as a *core SMCR firm* may be unduly burdensome as contemplated by section 138A(4)(a) of the *Act* (Modification or waiver of rules).
- (2) The *FCA* considers that deciding whether this is the case involves balancing the factors in (3) and (4).
- (3) The directors of a potential benchmark waiver firm who would require approval for performing one of the *FCA governing functions* if it was a *core SMCR firm* may spend very little of their time managing the *firm’s regulated activities*. In a big firm they may also be distant from those activities. It may therefore be more proportionate to require approval for someone who is closer to the day-to-day management of the *firm’s regulated activities*.
- (4) On the other hand, applying the *Act* and the *FCA’s* requirements directly to a *firm’s* most senior management will make it more

likely that they will take steps and put in place systems that will increase the likelihood that the *firm's* staff will meet the requirements of the senior managers and certification regime and that the values represented by those requirements will be absorbed into the *firm's* culture. It also helps to ensure that the *firm's* leaders have sufficient knowledge of, and skills in, the *firm's regulated activities*.

(5) The approach in SYSC 23 Annex 1 6.16G is designed to weigh the factors in (3) and (4) against each other.

- 6.16 G (1) SYSC 23 Annex 1 6.16G summarises the approach the FCA anticipates it will take in deciding whether to grant the *waiver*. SYSC 23 Annex 1 6.17G to SYSC 23 Annex 1 6.22G then give more detail.
- (2) Subject to (3), the FCA considers that a potential benchmark waiver firm (as defined in SYSC 23 Annex 1 6.13R(2)) is likely to meet the criteria for the granting of a *waiver* in section 138A(4)(a) of the Act (Modification or waiver of rules) if *regulated activities* form a small part of its activities, measured in the way described in SYSC 23 Annex 1 6.17G.
- (3) The FCA considers that a potential benchmark waiver firm meeting the conditions in (2) is nevertheless unlikely to meet the criteria for the granting of a *waiver* in section 138A(4) of the Act if:
- (a) any of the benchmarks it administers are important; or
- (b) the *firm* or the person who would be performing the *limited scope function* would not meet the requirements of MAR 8.5.2R (Responsibility for benchmark activities: regulated benchmark administrators).
- (4) In particular, under (3)(b):
- (a) the person who would be performing the *limited scope function* should be sufficiently senior (see MAR 8.5.3AG); and
- (b) the responsibilities in MAR 8.5.2R should not be split between several people (see MAR 8.5.3G).
- (5) SYSC 23 Annex 1 6.18G to SYSC 23 Annex 1 6.20G describe what important means in (3)(a).
- (6) SYSC 23 Annex 1 6.22G gives more detail about (3)(b).
- (7) The *waiver* would be available to *firms* of any size.

- 6.17 G (1) SYSC 23 Annex 1 6.17G describes how the FCA anticipates that it would decide whether *regulated activities* form a small part of a firm's activities for the purpose of SYSC 23 Annex 1 6.16G(2).
- (2) The FCA anticipates that it would consider that:
- (a) a firm would meet the criterion in (1) if revenue from *regulated activities* represents less than 20% of its overall revenue; and
- (b) a firm would not meet the criterion in (1) if revenue from *regulated activities* were 20% or more.
- (3) The FCA anticipates that it would measure those figures over a reasonable period and not just a single accounting period.
- (4) The FCA anticipates that it would measure revenue from *regulated activities* and overall revenue in the way described in SUP 15.17.5R to SUP 15.17.7R (Obligation to make calculations).
- (5) The FCA anticipates that it would adjust the calculation if there were good reason to think that past revenue is unlikely to be representative of the future. For instance:
- (a) the firm's past revenue may be distorted by extraordinary items; or
- (b) the firm may recently have carried out a major reorganisation of its business involving, for example, the disposal of all its activities other than benchmark activities or the acquisition of a business carrying out activities other than benchmark activities.
- 6.18 G The FCA anticipates that, in deciding whether a benchmark is important for the purposes in SYSC 23 Annex 1 6.16G, it will take into account whether there could be a significant and adverse impact on the *United Kingdom's* economy or financial system if the benchmark:
- (1) stops being provided; or
- (2) is provided in a way that significantly breaches or falls short of the requirements and standards of the *benchmarks regulation*.
- 6.19 G The FCA considers that a firm's benchmark is likely to be important for the purposes in SYSC 23 Annex 1 6.16G(3) and to meet the criteria in SYSC 23 Annex 1 6.18G if the benchmark is recognised as critical under the *benchmarks regulation*.
- 6.20 G In making the assessment of the importance of a benchmark that is not recognised as critical as described in SYSC 23 Annex 1 6.19G, the FCA anticipates that it will take into account factors that include the following:

- (1) whether the benchmark has no or very few appropriate market-led substitutes; and
- (2) whether the benchmark is used extensively in particular markets or sectors.
- 6.21 G (1) One reason for taking into account the importance of a benchmark is that if it is important, the factors in SYSC 23 Annex 1 6.15G(4) outweigh the factors in SYSC 23 Annex 1 6.15G(3).
- (2) Another reason is that, under section 138A(4)(b) of the Act (Modification or waiver of rules), the FCA may not grant a waiver if doing so would adversely affect the advancement of any of its operational objectives. Granting the waiver where a benchmark is important is likely to be inconsistent with section 138A(4)(b) because:
- (a) the occurrence of the situation in SYSC 23 Annex 1 6.18G(1) or (2) is likely in particular to prejudice the integrity operational objective; and
- (b) for the reasons in SYSC 23 Annex 1 6.15G(4), the FCA considers that applying the regime for core SMCR firms to benchmark firms will reduce the risk of that happening.
- 6.22 G The FCA anticipates that if a firm has a complicated management structure, that may mean that the firm does not meet the conditions in SYSC 23 Annex 1 6.16G(3)(b). In particular this may be the case if:
- (1) there are several managers involved in managing the firm's regulated activities who have different reporting lines; or
- (2) the person managing the firm's regulated activities has different reporting lines for different aspects of the role that give them different levels of autonomy.

Benchmark firms: Ceasing to meet waiver criteria

- 6.23 G If a limited scope SMCR benchmark firm ceases to meet the criterion in SYSC 23 Annex 1 6.17G, it is likely to be inappropriate for the waiver to continue. The mechanism for ensuring that this is the case might include one or more of the following:
- (1) building those criteria into the waiver;
- (2) revocation of the waiver; or
- (3) granting the waiver subject to a time limit and re-examining the criteria if the firm applies for a renewal.

6.24 G The FCA anticipates that the mechanisms in SYSC 23 Annex 1 6.23G will generally provide for a period of time between the *firm* ceasing to meet the criterion in SYSC 23 Annex 1 6.17G and the *firm* ceasing to be a *limited scope SMCR firm*.

Benchmark firms: Opting to be a core or enhanced scope firm

6.25 R (1) *A limited scope SMCR benchmark firm may opt to be an enhanced scope SMCR firm in accordance with this Annex.*

(2) *A limited scope SMCR benchmark firm may not opt to be a core SMCR firm under this Annex.*

6.26 G If a *limited scope SMCR benchmark firm* opts to be an *enhanced scope SMCR firm* and it subsequently revokes that election after it comes into effect, the *firm* will become a *core SMCR firm*. If it wants to be a *limited scope SMCR benchmark firm* again it will need to apply for a new *waiver*.

6.27 G *A limited scope SMCR benchmark firm* that wishes to become a *core SMCR firm* again should request the *FCA* to revoke the *waiver* in SYSC 23 Annex 1 6.12R.

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Part Twelve: Opting up and opting back down

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25 Senior managers and certification regime: Management responsibilities maps and handover procedures and material

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25.2 Management responsibilities maps: Main rules

...

Specific requirements

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25.2.4 R SYSC 25.2.3R(1) does not require the *firm* to include the names of *approved persons* under ~~SUP 10A.1.16BR (Appointed representatives)~~ SUP 10A (FCA Approved Persons in Appointed Representatives).

...

27 Senior managers and certification regime: Certification regime

27.1 Application and purpose

27.1.1 R This chapter applies to an *SMCR firm*, except those excluded from this chapter by SYSC 27.6 (Other exclusions).

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27.6 Other exclusions

...

Benchmarks

27.6.4 R (1) This chapter does not apply to a *firm* in relation to *benchmark activities*.

(2) In particular, this chapter does not apply to a *pure benchmark SMCR firm*.

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TP 7 Bank of England and Financial Services Act 2016: Certification and regulatory references

7.1 Application and purpose

...

7.1.2 R Table: Application of SYSC TP 7

Type of firm	Parts of SYSC TP 7 that apply
...	...
<i>A core SMCR firm, an enhanced scope SMCR firm and a limited scope SMCR firm other than a <u>pure benchmark SMCR firm</u></i>	All applies, subject to the adjustments in SYSC TP 8 (Bank of England and Financial Services Act 2016: Application to claims management companies).
<i>A firm in SYSC TP 7.4.8R</i>	Does not apply, except as follows: SYSC TP 7.4.6R, SYSC TP 7.4.7G, SYSC TP 7.4.8R and SYSC TP 7.6 apply.
<u><i>A pure benchmark SMCR firm</i></u>	<u>All applies, except that SYSC TP 7.2, SYSC TP 7.3, SYSC TP 7.4.1R and SYSC TP 7.7.3G to SYSC TP 7.7.6G do not apply.</u>

...	...
-----	-----

7.1.3 G SYSC TP 7:

...

- (3) has certain other transitional provisions relating to the amendments made to the *FCA Handbook* by the Individual Accountability (Dual-Regulated Firms) Instrument 2018 , ~~and~~ the Individual Accountability (FCA-Authorised Firms) Instrument 2019 and the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020; and

...

...

7.1.6 R Table: glossary of bespoke terms used in SYSC TP 7

...

Part Two: Dates			
(1) Defined term	(2) Meaning: Insurers	(3) Meaning: Others	(4) <u>Meaning: Benchmark firms</u>
certification transitional period	<u>Does not apply</u>
general commencement date	<u>7 December 2020 (as referred to in regulation 2(5) of the solo firms commencement SI)</u>
...			
Note (2): Column (3) (Others) applies to a <i>core SMCR firm</i> , an <i>enhanced scope SMCR firm</i> and a <i>limited scope SMCR firm</i> <u>but not to a <i>pure benchmark SMCR firm</i>.</u>			
<u>Note (3): Column (4) (Benchmark firms) applies to a <i>pure benchmark SMCR firm</i>.</u>			

...

7.4 Transitional provisions about regulatory references

...

- 7.4.8 R (1) ~~SYSC 22 (Regulatory references) applies to a *firm* that is excluded from being an *SMCR firm* by SYSC 23 Annex 1 3.7R (benchmark *firms*) as it applies to an *SMCR firm*.~~
- (2) ~~However, the provisions listed in SYSC 22.8.4R do not apply.~~
[deleted]

...

TP 8 Bank of England and Financial Services Act 2016: Application to claims management companies

...

8.4 Application of SYSC TP 7

...

- 8.4.5 G ~~SYSC TP 7.4.8R (Transitional provisions about regulatory references) and SYSC TP 7.5 (Transitional provisions about benchmarks and the certification regime) are~~ is not relevant.

...

Annex C

Amendments to the Code of Conduct sourcebook (COCON)

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

1 Application and purpose

1.1 Application

...

To what conduct does it apply?

...

1.1.7A R ...

(2) ...

(3) This rule does not apply where COCON 1.1.7BR applies.

1.1.7B R (1) Where a member (M) of the *conduct rules staff* of Firm A as described in COCON 1.1.6R to COCON 1.1.7R meets the condition in (c) and Firm A meets the conditions in (a) and (b), the application of COCON to the conduct of M in relation to Firm A is further restricted by this rule:

(a) the firm is a pure benchmark SMCR firm;

(b) the firm is an Annex II benchmark administrator (whether or not it also administers other benchmarks); and

(c) M does not perform any functions described in COCON 1.1.6R to COCON 1.1.7R in relation to Firm A with respect to any benchmark that the firm administers except a benchmark that is subject to Annex II to the benchmarks regulation.

(2) (a) The only conduct to which the following rules apply is the conduct described in (2)(b):

(i) the rules in COCON 2.1 (Individual conduct rules); and

(ii) rule SC4 in COCON 2.2 (You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice).

(b) The rules in (2)(a) apply only to any of the following:

- (i) the performance of a function by M in relation to the carrying on of a *regulated activity* by Firm A;
 - (ii) (if M is an *SMF manager*) the performance by M of a *controlled function* in relation to Firm A (whether or not approval has been sought and granted).
- (3) Rules SC1 to SC3 in COCON 2.2 (Senior manager conduct rules) apply only to conduct:
- (a) that comes within (2)(b); or
 - (b) that comes within COCON 1.1.7AR, but this paragraph (3)(b) only applies in a *prudential context*.
- 1.1.8 G (1) More than one of COCON 1.1.6R to ~~COCON 1.1.7AR~~ COCON 1.1.7BR may apply to the same individual performing several roles.
- ...
- 1.1.8A R (1) This *rule* applies to a person (P):
- (a) who is an *approved person* approved to perform a *controlled function* under ~~SUP 10A.1.15R to SUP 10A.1.16BR~~ (~~appointed representatives~~) SUP 10A (FCA Approved Persons in Appointed Representatives);
- ...
- ...

4 Specific guidance on individual conduct rules

4.1 Specific guidance on individual conduct rules

...

Rule 3: You must be open and cooperative with the FCA, the PRA and other regulators

...

4.1.12 G

4.1.12A G The FCA only expects a member of the *conduct rules staff* of an *Annex II benchmark administrator* when the *firm* is acting as such to disclose information under rule 3 which is relevant to the *firm's* compliance with its obligations under the *benchmarks regulation*.

Rule 4: You must pay due regard to the interests of customers and treat them fairly.

...

4.1.14 G

4.1.14A G In general, the *customers* of a *benchmark administrator* are the users of the *benchmark* (as defined in the *benchmarks regulation*). A user of a *benchmark* will not however be a *customer* if the user does not have a licence to use it and the user has not made an agreement with the *benchmark administrator* about the way the *benchmark administrator* carries on the activities included in the *regulated activity* of *administering a benchmark*.

...

Rule 5: You must observe proper standards of market conduct.

...

4.1.17 G

4.1.18 G For the purposes of *rule 5* and the *regulated activity* of *administering a benchmark*, proper standards of market conduct means compliance with the *benchmarks regulation* and other requirements of the *regulatory system* or of legislation applicable to *administering a benchmark*. In the case of *administering a benchmark* there are no additional standards of market conduct for the purposes of *rule 5*.

...

4.2 Specific guidance on senior manager conduct rules

...

SC4: You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice

...

4.2.29 G ...

4.2.30 G The *FCA* only expects a *senior conduct rules staff member* of an *Annex II benchmark administrator* when the *firm* is acting as such to disclose information under *rule SC4* which is relevant to the *firm's* compliance with its obligations under the *benchmarks regulation*.

...

TP 1 Transitional provisions: Miscellaneous

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
...					
2	...	...	...	...	...
<u>3</u>	<u>Row (6) of the table in COCON 1.1.2R (Table: To whom does COCON apply?)</u>	<u>R</u>	<u>Row (6) does not apply to an <i>employee</i> of a <i>pure benchmark SMCR firm</i>.</u>	<u>Between 7 December 2020 and 7 December 2021</u>	<u>The <i>rule</i> in column (2) applies from the end of the period defined in column (5).</u>
<u>4</u>	<u>Row (6) of the table in COCON 1.1.2R (Table: To whom does COCON apply?)</u>	<u>G</u>	<u>The effect of COCON TP 1.3R is that an <i>employee</i> described in column (1) of row (6) of the table in COCON 1.1.2R is not subject to COCON until 7 December 2021.</u>	<u>As stated in COCON TP 1.3R.</u>	<u>As stated in COCON TP 1.3R.</u>

Annex D

Amendments to the Threshold Conditions sourcebook (COND)

In this Annex, underlining indicates new text.

2 The threshold conditions

...

2.5 Suitability

...

Paragraph 3D to Schedule 6 of the Act

...

- 2.5.3 G (1) The emphasis of the *threshold conditions* set out in paragraphs 2E and 3D of Schedule 6 of the *Act* is on the suitability of the *firm* itself. The suitability of each *person* who performs a *controlled function* will be assessed by the *FCA* and/or the *PRA*, as appropriate, under the *approved persons* regime (in relation to an *FCA-approved person*, see *SUP 10A* (FCA Approved Persons in Appointed Representatives), *SUP 10C* (FCA senior managers regime for approved persons in SMCR firms) and *FIT*). In certain circumstances, however, the *FCA* may consider that the *firm* is not suitable because of doubts over the individual or collective suitability of persons connected with the *firm*.

...

Annex E

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

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

1 Application and purpose

1.1A Application

Who?

- 1.1A.1 R *APER* applies to *FCA-approved persons* who are ~~either:~~
- (1) ~~*approved persons of firms that are not SMCR firms; or*~~
 - (2) ~~*approved persons approved to perform a controlled function in SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives)*~~ *SUP 10A (FCA Approved Persons in Appointed Representatives).*

- 1.1A.1A G (1) ~~*APER does not apply to FCA-approved persons of SMCR firms. COCON applies instead.*~~
- (2) ~~*However, APER applies to approved persons approved to perform a controlled function under SUP 10A.1.15R to SUP 10A.1.16BR (appointed representatives) even if the appointed representative's principal is an SMCR firm. [deleted]*~~

What?

- 1.1A.2 R (1) *APER* applies to the performance by an *approved person* of *FCA controlled functions* in *SUP 10A (FCA Approved Persons in Appointed Representatives)* (whether or not approval has been sought and granted).

...

- (5) *APER does not apply to conduct unless it is within the scope of section 64A of the Act (Rules of conduct).*

...

Where?

- 1.1A.5 G The territorial scope of the *approved persons* regime and its application to *incoming EEA firms* is set out in *SUP 10A.1* (~~see SUP 10A.1.11R and SUP 10A.1.13R).~~

Coverage of APER

1.1A.6 G ~~APER 1.1A.7G gives examples of the effect of APER 1.1A.1R and APER 1.1A.2R. The first column says whether the example involves an FCA-approved person in relation to one or two firms. The second column explains what functions APER covers in the scenario set out in the first column. [deleted]~~

1.1A.7 Table: Examples of what activities APER covers

FCA approved	Coverage of APER
(1) Yes, in relation to <i>firm A</i>	Applies to the <i>FCA controlled function</i> . Also applies to any other function performed for <i>firm A</i> in relation to the carrying on by <i>firm A</i> of a <i>regulated activity</i> even if it is not a <i>controlled function</i> .
(2) Yes, in relation to <i>firm A</i> . No, in relation to <i>firm B</i> ;	In relation to <i>firm A</i> , the answer is the same as for scenario (1). However, <i>APER</i> does not apply to any function that the <i>approved person</i> carries on in relation to <i>firm B</i> even if that function relates to <i>regulated activities</i> carried out by <i>firm B</i> . However, if the function that they perform in relation to <i>firm B</i> is a <i>controlled function</i> the <i>approved person</i> and <i>firm B</i> may be subject to legal sanctions (see <i>SUP 10A.13.1G</i> to <i>SUP 10A.13.2G</i>).

1.1A.8 G (1) ~~A person may be an approved person in relation to more than one firm. When that is the case, APER applies in relation to all those firms.~~

(2) ~~APER does not apply if the firm is an SMCR firm, except for approved persons of an appointed representative of an SMCR firm.~~

(3) ~~If a person is an approved person of a firm (A) that is not an SMCR firm and also of another firm (B) that is an SMCR firm, the result is:~~

(a) ~~APER applies to the approved person in relation to firm A; and~~

(b) ~~COCON applies to the approved person in relation to firm B. [deleted]~~

1.1A.9 G (1) ~~APER 1.1A refers to an approved person's firm. This means their authorised approved person employer.~~

(2) ~~Under section 59 of the Act (Approval for particular arrangements) there are two kinds of approved person.~~

- (3) ~~Section 59(1) of the Act describes the first. It covers a *person* who performs a *controlled function* under an arrangement entered into by an *authorised person* (“A”). In this case, the *authorised approved person employer* is A.~~
- (4) ~~Section 59(2) of the Act describes the second. It covers a *person* who performs a *controlled function* under an arrangement entered into by a contractor (“B”) of an *authorised person* (“A”). In this case, the *authorised approved person employer* is A (and not B). [deleted]~~

...

Replace the defined term “firm” (and derivatives thereof) wherever it appears in APER 2, APER 3 and APER 4 with the defined term “APER employer” (or derivatives thereof as appropriate). This does not apply to those provisions of APER in the following portion of this annex, which are instead amended as shown.

3 Code of Practice for Approved Persons: general

3.1 Introduction

...

3.1.7A G ...

3.1.7B G (1) Statements of Principle 1 to 4 apply to an approved person’s conduct in relation to:

(a) the appointed representative for which they work; and

(b) things directly done for their authorised approved person employer.

(2) Statements of Principle 5 to 7 only apply to an approved person’s conduct in relation to the appointed representative for which they perform their accountable higher management function.

...

3.1.9 G (1) ~~UK domestic firms~~ An APER employer that has its registered office (or, if it has no registered office, its head office) in the United Kingdom with a premium listing ~~are~~ is subject to the UK Corporate Governance Code, whose internal control Provisions are amplified in the publication entitled ‘Guidance on Risk Management, Internal Control and Related Financial and Business Reporting (September 2014)’ issued by the Financial Reporting Council. ~~Firms regulated by the FCA~~ An APER employer in this category will be subject to

that code as well as to the requirements and standards of the *regulatory system*.

- (2) ~~In~~ Where (1) applies, in forming an opinion whether *approved persons* have complied with ~~its~~ the requirements of the *regulatory system*, the *FCA* will give due credit for their following corresponding Provisions in the *UK Corporate Governance Code* and related *guidance*.

- 3.1.10 R (1) ~~In the case of an *approved person* approved to perform a *controlled function* in *SUP 10A.1.15R* to *SUP 10A.1.16BR* (appointed representatives), a reference in in *APER 2* to *APER 4* to a *firm* is a reference to:~~
- (a) ~~the *appointed representative* in relation to which that *approved person* performs the *controlled function* in *SUP 10A.1.15R* to *SUP 10A.1.16BR*; and~~
 - (b) ~~their *authorised approved person employer*.~~
- (2) For the purposes of *Statements of Principle 5* to *7*, a ~~the~~ reference to an *APER employer* only includes a *person* coming within paragraph ~~is only to~~ (a) of the definition of *APER employer* (the *appointed representative* in relation to which the *approved person* performs the *controlled function* in *SUP 10A*).

Annex F

Amendments to the Fit and Proper test for Employees and Senior Personnel sourcebook (FIT)

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

1 General

1.1 Application and purpose

1.1.1 G *FIT* applies to:

- (1) ~~a firm (including~~ an *SMCR firm*);
- (2) an applicant for *Part 4A permission* that will be an *SMCR firm* if the application succeeds;
- (3) an *EEA firm* or a *Treaty firm* that wishes to establish a *branch* into the *United Kingdom* using *EEA rights* or *Treaty rights*; or apply for a *top-up permission* if the firm will be an *SMCR firm*;

...

...

1.1.3 G The table in *FIT* 1.1.4G summarises the situations to which *FIT* applies. [deleted]

1.1.4 G Table: Situations to which *FIT* applies [deleted]

What FIT applies to	Does it apply to <i>SMCR firms</i> ?	Does it apply to <i>firms</i> that are not <i>SMCR firms</i> ?	Comment
(1) A <i>firm</i> assessing the fitness and propriety of a candidate whom the <i>firm</i> is proposing to put forward for approval	Yes	No	However, the answer to Question 11 in <i>SUP</i> 10A Annex 1 (Frequently asked questions) says that the <i>FCA</i> 's approval process is not a substitute for the checks that a <i>firm</i> should be carrying out on its prospective recruits.

			<i>FIT</i> may be a useful guide to matters that a <i>firm</i> that is not an <i>SMCR firm</i> should take into account.
(2) A <i>firm</i> assessing the continuing fitness and propriety of an <i>approved person</i>	Yes	No	However, a <i>firm</i> should employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them (<i>SYSC 5.1</i>). <i>FIT</i> may be a useful guide to matters which a <i>firm</i> should take into account if it is not an <i>SMCR firm</i> .
(3) The <i>FCA</i> assessing the fitness and propriety of a <i>candidate</i> for approval as an <i>approved person</i>	Yes	Yes	
(4) The <i>FCA</i> assessing the continuing fitness and propriety of an <i>approved person</i>	Yes	Yes	
(5) A <i>firm</i> assessing the fitness and propriety of a <i>person</i> whom a <i>firm</i> is proposing to certify to perform an <i>FCA certification function</i>	Yes	No	<i>FCA certification functions</i> do not apply to a <i>firm</i> that is not an <i>SMCR firm</i> . However, see the comment on row (2).
(6) A <i>firm</i> assessing the continuing fitness and propriety of a <i>person</i> whom a <i>firm</i> has certified to perform an <i>FCA</i>	Yes	No	<i>FCA certification functions</i> do not apply to a <i>firm</i> that is not an <i>SMCR firm</i> . However, see the comment on row (2).

<i>certification function</i>			
-------------------------------	--	--	--

1.2 Introduction

1.2.-1 G Under section 60A(1) of the *Act*, before ~~an SMCR~~ a firm may make an application for the *FCA*'s approval of a *controlled function* the firm must be satisfied that the *person* for whom the application is made is a fit and proper *person* to perform that function.

...

1.2.1A G Under section 63F of the *Act*, ~~an SMCR~~ a firm may issue a certificate to a *person* to perform a *certification function* only if it is satisfied that the *person* is a fit and proper *person* to perform that function.

1.2.1B G Under sections 60A and 63F of the *Act*, in assessing whether a *person* is a fit and proper *person* to perform an *FCA designated senior management function* or an *FCA certification function*, ~~an SMCR~~ a firm must have particular regard to whether that *person*:

...

...

1.2.4A G ...

(2) ...

(c) matters within the responsibility of the *FCA* as the *Host State regulator*, for example *money laundering* responsibilities (see the *money laundering reporting function* (~~CF11 and SMF17~~)) or (3) below;

...

...

1.3 Assessing fitness and propriety

...

1.3.2A G ~~An SMCR~~ A firm assessing the fitness and propriety of *staff being assessed under FIT* should consider:

...

1.3.2B G ~~An SMCR~~ A firm is reminded that, in assessing a *candidate* for a position within the *management body* of the *firm*, SYSC 4.3A.3R(3) requires the *firm*

to ensure that the management body, as a collective, possesses adequate knowledge, skills and experience to understand the *firm's* activities.

- 1.3.3 G The criteria listed in *FIT 2.1* to *FIT 2.3* are *guidance* and will be applied in general terms when the *FCA* is determining a *person's* fitness and propriety. It would be impossible to produce a definitive list of all the matters which would be relevant to a particular determination. ~~An *SMCR* A firm~~ assessing the fitness and propriety of *staff being assessed under FIT* should be guided by substantially the same criteria in *FIT 2.1* to *FIT 2.3* (to the extent applicable to the *firm*), recognising that this is not intended to be a definitive list of matters to be considered.
- 1.3.4 G If a matter comes to the *FCA's* attention which suggests that the *person* might not be fit and proper, the *FCA* will take into account how relevant and how important it is. In the same way, if a matter comes to the attention of ~~an *SMCR* a firm~~ which suggests that any *staff being assessed under FIT* might not be fit and proper, the *firm* should take into account how relevant and how important that matter is.
- 1.3.4A G ~~An *SMCR* A firm~~ assessing the continuing fitness and propriety of an *approved person* is required to notify the *FCA* under section 63(2A) of the *Act* if it forms the opinion that there are grounds on which the *FCA* could withdraw its approval (see *SUP 10C.14.24R*). In discharging its obligation to notify the *FCA*, ~~an *SMCR* a firm~~ should take into account how relevant and how important the matter is that comes to its attention which suggests an *approved person* might not be fit and proper before determining that a notification should be made.
- 1.3.4B G ~~An *SMCR* A firm~~ assessing the continuing fitness and propriety of *staff being assessed under FIT* should assess the role that the individual is actually performing at the time the assessment is done. For this purpose, the assessor(s) should be provided with an up-to-date job description for that individual in advance of the assessment.

...

2 Main assessment criteria

2.1 Honesty, integrity and reputation

...

- 2.1.1A G ~~An *SMCR* A firm~~ determining the honesty, integrity and reputation of *staff being assessed under FIT*, should consider all relevant matters, including those set out in *FIT 2.1.3G*, which may have arisen either in the *United Kingdom* or elsewhere. *Firms* should inform themselves of relevant matters, including checking for convictions for criminal offences (where possible) and contacting previous employers who have employed that *candidate* or *person*. If any *staff being assessed under FIT* has a conviction for a criminal offence, the *firm* should consider the seriousness of and circumstances surrounding the offence, the explanation offered by that *person*, the

relevance of the offence to the proposed role, the passage of time since the offence was committed and evidence of the individual's rehabilitation.

...

2.1.2A G In considering the reputation of *staff being assessed under FIT 2.1.1AG* ~~an~~ *SMCR* a firm should have regard to whether that *person's* reputation might have an adverse impact upon the *firm* for which the function is to be performed and the *person's* responsibilities.

2.1.3 G The matters referred to in *FIT 2.1.1G* to which the *FCA* will have regard, and to which ~~an~~ *SMCR* a firm should also have regard, include, but are not limited to:

...

2.2 Competence and capability

...

2.2.1A G In determining a *person's* competence and capability to perform an *FCA designated senior management function* or an *FCA certification function*, ~~an~~ *SMCR* a firm, in accordance with *FIT 1.1.2G*, should have regard to all relevant matters including but not limited to:

...

...

2.2.2A G The *FCA* would expect ~~an~~ *SMCR* a firm determining the competence and capability of *staff being assessed under FIT* to consider convictions, dismissals and suspensions from employment for drug or alcohol abuses or other abusive acts only in relation to a *person's* continuing ability to perform the particular *FCA designated senior management function* or an *FCA certification function* for which the *person* is, or is to be, employed.

2.3 Financial soundness

2.3.1 G In determining a *person's* financial soundness, the *FCA* will have regard, and ~~an~~ *SMCR* a firm should also have regard, to any factors including, but not limited to:

...

2.3.2 G The *FCA* will not normally require a *candidate* to supply a statement of assets or liabilities. The fact that a *person* may be of limited financial means will not, in itself, affect their suitability to perform a controlled function. The *FCA* would expect ~~an~~ *SMCR* a firm to take a similar view in assessing whether *staff being assessed under FIT*, are fit and proper.

...

Annex G

Amendments to the Market Conduct sourcebook (MAR)

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

8 Benchmarks

...

8.5 Regulated benchmark administrators

...

Responsibility for benchmark activities: regulated benchmark administrators

- 8.5.2 R (1) This *rule* applies to a *regulated benchmark administrator* other than:
- (a) an *Annex II benchmark administrator*;
 - (b) ~~an SMCR firm~~ a PRA-authorised person.
- (2) A *regulated benchmark administrator* must allocate the responsibility described in (3) to a *director* or *senior manager* ~~who is performing~~; other than a non-executive director.
- (a) ~~an FCA governing function other than the non-executive director function; or~~
 - (b) the significant management function (where applicable).
- (2A) In the case of a limited scope SMCR benchmark firm, the director or senior manager in (2) must be sufficiently senior for the function of performing that responsibility to meet the definition of a senior management function.
- ...
- 8.5.3 G ~~The rule in MAR 8.5.2R does not apply to a regulated benchmark administrator which is an SMCR firm. That is because:~~
- (1) ~~Most UK SMCR firms are already subject to the requirement to allocate overall responsibility for each of the activities, business areas and management functions of the firm in SYSC 26.3 (Main rules) (the table in SYSC 25 Annex 1G (Examples of the business activities and functions of a relevant authorised person an SMCR firm) refers to administering a benchmark); and~~ A firm may allocate the responsibility in MAR 8.5.2R to more than one person.

(2) ~~overseas SMCR firms do not require authorisation to carry out the activity of administering a benchmark unless they are located in the UK. That is because that regulated activity gives effect to article 34 of the benchmarks regulation and, for these purposes, the requirements of article 34 only apply to administrators which are located in the UK. If the firm does so, it should not divide the responsibility between them. Instead each person should be responsible for all aspects of the role.~~

(3) For example, the role could be allocated to more than one person:

- (a) as part of a job share; or
- (b) where departing and incoming senior managers work together temporarily as part of a handover.

8.5.3A G (1) The FCA expects that a person who has the responsibility in MAR 8.5.2R will:

- (a) be sufficiently senior and credible; and
- (b) have sufficient resources and authority;

to be able to exercise their management and oversight responsibilities effectively.

(2) One element of a manager’s seniority is the degree to which they can and do make decisions without prior approval and exercise judgment and discretion.

...

8.5.6 G ~~An Annex II benchmark administrator which is an SMCR firm~~ A firm may comply with the requirement in MAR 8.5.2R(4) or MAR 8.5.4R(2) to notify the FCA of the identity of the ~~most senior manager(s) responsible for implementing the requirements of the benchmarks regulation~~ concerned by including that responsibility in that *person’s statement of responsibilities*.

...

Annex H

Amendments to the Supervision manual (SUP)

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

Part 1: Comes into force 3 June 2020

10A FCA Approved Persons

...

SUP 10A Annex 10D (MiFID Article 4 APER Information Form) is deleted in its entirety. The deleted text is not shown but the Annex is marked [deleted], as shown below.

10A Annex 10D MiFID Article 4 APER Information Form [deleted]

Amend the following as shown.

TP 11A Bank of England and Financial Services Act 2016: Approved persons in solo-regulated firms

11A.1 Application, purpose and definitions

11A.1.1 R (1) ...

(2) ...

(3) SUP TP 11A applies to a **pure benchmark SMCR firm** subject to the modifications in SUP TP 11A.25A.

11A.1.2 G (1) *SUP TP 11A has transitional provisions relating to the introduction of the senior managers and certification regime for *FCA-authorised persons* by Part 2 of the Bank of England and Financial Services Act 2016, and the Individual Accountability (FCA-Authorised Firms) Instrument 2019 and the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.*

...

- 11A.1.3 G (1) The main time period for which *SUP* TP 11A operates is 2019. For a **pure benchmark SMCR firm** the main period in which it operates is 2020.
- (2) ...
- 11A.1.4 G ...
- 11A.1.5 R (1) The terms in the first column of the table in *SUP* TP 11A.1.5R, where they appear in bold in *SUP* TP 11A, have the meanings in the corresponding entry in column 2 for the purposes of *SUP* TP 11A.
- (2) For a **pure benchmark SMCR firm** the table is modified by *SUP* TP 11A.25A.3R.

Part One: General	
Defined term	Meaning
...	...
firm specific date	...
<u>limited scope SMCR benchmark firm</u>	<u>has the meaning set out in the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.</u>
...	...
pre-implementation controlled function	...
<u>pure benchmark SMCR firm</u>	<u>has the meaning set out in the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.</u>
...	...

11A.4 Lapse of existing approvals and special provisions about appointed representatives

...

- 11A.4.2 R (1) *SUP* TP 11A does not apply to a **pre-implementation approval** that has effect under *SUP* 10A.1.15R to *SUP* 10A.1.16AR (appointed

~~representatives)~~ SUP 10A (FCA Approved Persons in Appointed Representatives).

...

...

Insert a new section, SUP TP 11A.25A, after SUP TP 11A.25.2R. The text is not underlined.

11A.25.2 R ...

11A.25A Pure benchmark firms

11A.25A.1 R SUP TP 11A.25A applies to a **pure benchmark SMCR firm**.

11A.25A.2 G SUP TP 11A.25A explains how SUP TP 11A applies to a **pure benchmark SMCR firm**.

11A.25A.3 R The definitions and dates in the table in SUP TP 11A.1.5R are amended as follows:

- (1) the definition of a term in column one of Part One of the table in this *rule* replaces the corresponding definition in Part One of the table in SUP TP 11A.1.5R; and
- (2) Part Two of the table in this *rule* replaces Part Two of the table in SUP TP 11A.1.5R.

Part One: General	
Defined term in main table of definitions	Adjusted meaning
core SMCR firm, enhanced scope SMCR firm, limited scope SMCR firm, overseas SMCR firm	<p>have the meaning set out in the <i>Glossary</i> and are subject to the amendments to be made by the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.</p> <p>This is subject to SUP TP 11A.23.</p>

Part Two: Fixed dates

Defined term in main table of definitions	New meaning
first notification date	7 September 2020
final notification date	4 December 2020
commencement date	7 December 2020
Form O start date	9 June 2020
enhanced firm cut-off date	N/A
Note: If a <i>firm</i> becomes a pure benchmark SMCR firm between the final notification date and the commencement date , the final notification date for it is the date it becomes a pure benchmark SMCR firm .	

- 11A.25A. R (1) This *rule* makes some adjustments about how certain references to the Individual Accountability (FCA-Authorised Firms) Instrument 2019 in *SUP* 11A apply to a **pure benchmark SMCR firm**.
- 4
- (2) Note (1) to the table in *SUP* 11A.2.5R (Mapping table: Potential conversion of approval for existing controlled functions into approval for designated senior management functions) is amended so that a reference to a new FCA-designated senior management function is to the *FCA-designated senior management function* with the same name taking into account amendments made by the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.
- (3) *SUP* 11A.23.1R is adjusted so that the *firm's* categorisation is determined in accordance with *SYSC* 23 Annex 1 as adjusted by the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.
- (4) *SUP* 11A.23.5R(1) is adjusted so that the *rules* for making an election to become an *enhanced scope SMCR firm* that it modifies are the ones in *SYSC* 23 Annex 1 as adjusted by the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020.
- 11A.25A. G The material in *SUP* TP 11A about **enhanced scope SMCR firms** is likely to be irrelevant to a **pure benchmark SMCR firm** as it does not meet most of the qualification conditions for this category. However, *SUP* TP 11A.25A
- 5

does not disapply those provisions as it is possible that a **pure benchmark SMCR firm** may choose to opt into that category.

11A.25A. G (1) The table in *SUP* TP 11A.25A.7G explains how each section of *SUP*
6 TP 11A applies to a **pure benchmark SMCR firm**.

(2) It assumes that the *firm* has not elected to be an **enhanced scope SMCR firm**. If it does elect to be one, many of the parts of *SUP* TP 11A that the table shows as not applying will apply and a few parts that the table shows as applying will not apply.

11A.25A. G Table: How *SUP* TP 11A applies to a pure benchmark SMCR firm
7

Section	Title	How it applies
11A.1	Application, purpose and definitions	This applies. The definitions in <i>SUP</i> TP 11A.1.5R are amended by <i>SUP</i> TP 11A.25A.3R.
11A.2	Conversion of existing approvals	This applies. However many of the pre-implementation controlled functions will not apply. Part Two of the table in <i>SUP</i> TP 11A.2.5R does not apply. <i>SUP</i> TP 11A.2.8G does not apply. <i>SUP</i> TP 11A.2.9R to <i>SUP</i> TP 11A.2.11G will generally not apply. They will only apply if the <i>firm</i> has to submit a Form K. The entry in this table for <i>SUP</i> TP 11A.5 explains when this is the case.
11A.3	Effect of conversion	This applies.
11A.4	Lapse of existing approvals and special provisions about appointed representatives	This applies. However, the material about <i>appointed representatives</i> in <i>SUP</i> TP 11A.4.2R and <i>SUP</i> TP 11A.4.3G does not apply as a pure benchmark SMCR firm is not a <i>firm with a limited permission</i> and is unlikely to have or be an <i>appointed representative</i> .
11A.5	Notification to the FCA: Initial notification	<i>SUP</i> TP 11A.5 (including the requirement to submit a Form K) does not apply to: (a) a limited scope SMCR benchmark firm ; or (b) any other pure benchmark SMCR firm unless the <i>chair of the governing body function</i> will apply.

		Even if it does apply, the material about the <i>customer function</i> does not apply as that function does not apply to a pure benchmark SMCR firm .
11A.6	Notification to the FCA: Revision of initial notice	In general, this does not apply. It only applies if the <i>firm</i> has submitted a Form K under <i>SUP TP 11A.5</i> .
11A.7	In-flight applications: Conversion	This applies.
11A.8	In-flight applications: Notification requirements	In general, this does not apply. It only applies if the <i>firm</i> has to submit a Form K (for which, please see the entry in this table for <i>SUP TP 11A.5</i>).
11A.9	In-flight applications: Supplemental material	This applies.
11A.10	Procedure for notification	In general, this does not apply. It only applies if the <i>firm</i> has to submit a Form K (for which, please see the entry in this table for <i>SUP TP 11A.5</i>).
11A.11	Statements of responsibilities	This applies. <i>A firm</i> does not have to send the <i>FCA</i> its statements of responsibilities for its transitioned SMF managers .
11A.12	Management responsibilities maps	This does not apply.
11A.13	Supplemental material about statements of responsibilities and management responsibilities maps	The material in this section about statements of responsibilities applies. The material about management responsibilities maps does not.
11A.14	Criminal record checks and employment references	This applies.
11A.15	Applications of approved persons to take effect from	This applies.

	the commencement date	
11A.16	Application of ongoing requirements to converted approvals and conversion documents	This applies. However, the material about management responsibilities maps does not apply.
11A.17	Making sure that the Financial Services Register is accurate	This applies. However, the material about the <i>customer function</i> does not apply as that function does not apply to a pure benchmark SMCR firm .
11A.18	The 12-week rule	This applies.
11A.19	Application for permission	This applies to someone applying to be a pure benchmark SMCR firm .
11A.20	Prohibition orders	This applies.
11A.21	Reporting under SUP 15.11	This will generally not apply as for the most part it relates to <i>certification employees</i> . It applies to a <i>board director</i> .
11A.22	Calculations for retail intermediaries	This does not apply.
11A.23	Deciding which category a firm is in	<p><i>SUP</i> TP 11A.23.1R applies. <i>SUP</i> TP 11A.25A.4R adjusts the reference to the Individual Accountability (FCA-Authorised Firms) Instrument 2019) in this <i>rule</i>.</p> <p>The effect of <i>SUP</i> TP 11A.23.1R is that if a <i>firm</i> acquires <i>permission</i> for any <i>regulated activities</i> other than benchmark activities before 7 December 2020:</p> <ul style="list-style-type: none"> (a) the conversion arrangements in <i>SUP</i> TP 11A will not apply to it; (b) <i>SUP</i> TP 11A.15 and <i>SUP</i> TP 11A.23.2G will not apply; (c) the <i>firm</i> will become an <i>SMCR firm</i>; and (d) the <i>firm</i> will need to apply for and obtain new approvals under <i>SUP</i> 10C (FCA senior managers regime for approved persons in SMCR firms) before its change of <i>permission</i> takes effect.

		<p>Most of the rest of <i>SUP</i> TP 11A.23 does not apply as it relates to enhanced scope SMCR firms or opting to be a core SMCR firm. <i>SUP</i> TP 11A.23.10G applies.</p> <p>The <i>waiver</i> referred to in <i>SYSC</i> 23 Annex 1 6.12R (as set out the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020) may be given before the commencement date. If it is, the <i>firm</i> is a limited scope SMCR benchmark firm for the purpose of <i>SUP</i> TP 11A unless the <i>waiver</i> says otherwise.</p>
11A.24	Claims management firms	Does not apply.
11A.25	Forms	In general, this does not apply. It only applies if the <i>firm</i> has to submit a Form K (for which, please see the entry in this table for <i>SUP</i> TP 11A.5).

Part 2: Comes into force 7 December 2020

6 Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirement

...

6.3 Applications for variation of permission and/or imposition, variation or cancellation of requirements

...

How a variation of permission may affect the firm's approved persons

6.3.8 G (1) Where a *firm* is submitting an application for variation of *Part 4A permission* which would lead to a change in the *controlled functions* of its *approved persons*, it should, at the same time and as appropriate:

(a) make an application for an internal transfer of an *approved person*, Form E (Internal transfer of a person performing a controlled function), or make an application for an individual to perform additional *controlled functions*, the relevant Form A (Application to perform ~~controlled~~ senior management functions); see:

(i) *SUP* 10A.13.3D to *SUP* 10A.13.5G (for a *firm* that is ~~not an SMCR firm~~ has appointed representatives);

...

- (b) notify the *FCA* or *PRA* of any *approved person* who has ceased to perform a *controlled function* specified by that regulator, Form C (Notice of ceasing to perform controlled functions (including senior management functions)); see:
 - (i) *SUP* 10A.14 (for a *firm* that ~~is not an *SMCR firm*~~ has appointed representatives);

...

- (2) If the *firm* intends to recruit new individuals to perform *controlled functions*, it should apply for approval of the individuals as *approved persons* as soon as possible using Form A (Application to perform ~~controlled~~ senior management functions); see:
 - (a) *SUP* 10A.13 (for a *firm* that ~~is not an *SMCR firm*~~ has appointed representatives);

...

SMCR firm status

- 6.3.9 G A variation of a *firm's Part 4A permission* may mean that it becomes an *SMCR firm* or that it changes from one type of *SMCR firm* to another. This would have a number of significant consequences, which include:
 - (1) the application of the special powers in relation to misconduct by *approved persons* (see *DEPP* 6.2.9-AG);
 - (2) the ~~*approved persons senior managers* regime switches from *SUP* 10A to in *SUP* 10C applies~~;
 - (3) *COCON* applies ~~in place of *APER*~~ to its staff; and
 - (4) the other elements of the regime for *SMCR firms* described in *SYSC* 23.4 (Overview of the senior managers and certification regime) apply (which differ depending on the type of *SMCR firm*).

...

6.4 Applications for cancellation of permission

...

Approved persons

- 6.4.18 G (1) A *firm* which is applying for cancellation of *Part 4A permission* and which is not otherwise *authorised* by, or under, the *Act* should, at the same time:
- (a) comply with:
- (i) *SUP 10A.14.8R* (for a *firm* that is ~~not an SMCR firm~~ has appointed representatives);
- ...
- ...
- ...

10A FCA Approved Persons in Appointed Representatives

10A.1 Application

General

- 10A.1.1 R This chapter applies to every :
- (1) ~~firm that is not an SMCR firm; and~~
- (2) ~~SMCR firm, but only to the extent required by SUP 10A.1.16BR (Appointed representatives)~~ with respect to their appointed representatives.
- ~~other than a firm which has permission to carry on only regulated claims management activities.~~

...

- 10A.1.2 G This chapter is also relevant to ~~every FCA-approved person:~~
- (1) ~~of a firm that is not an SMCR firm~~ FCA-approved person of an appointed representative of an SMCR firm; and
- (2) ~~of any appointed representative, including of an appointed representative of an SMCR firm.~~

...

Overseas ~~firms~~ appointed representatives: UK services

- 10A.1.5 R (1) This chapter does not apply in relation to an overseas firm overseas appointed representative in relation to *regulated activities* which are carried on in the *United Kingdom* other than

from an establishment maintained by it or its *appointed representative principal* in the *United Kingdom*.

- (2) An overseas appointed representative means an appointed representative which has its registered office (or, if it has no registered office, its head office) outside the United Kingdom.

Overseas ~~firms~~ appointed representatives: UK establishments

- 10A.1.6 R - (1) Only the following *FCA controlled governing functions (as modified by this rule)* apply in relation to an ~~overseas firm~~ overseas appointed representative which maintains (or whose *principal* maintains) an establishment in the *United Kingdom* from which *regulated activities* are carried on:
- (a) the director function;
 - (b) the non-executive director function; and
 - (c) the chief executive function.
- (1) ~~the~~ The director function where only applies to the extent that the person performing that function:
- (a) has responsibility for the *regulated activities* of ~~a~~ the UK branch establishment which are likely to enable ~~him~~ them to exercise significant influence over that ~~branch~~ establishment; or
 - (b) is someone whose decisions or actions are regularly taken into account by the *governing body* of that ~~branch~~ establishment.
- (2) ~~the~~ The non-executive director function where only applies to the extent that the person performing one of those functions that function:
- (a) has responsibility for the *regulated activities* of ~~a~~ the UK branch establishment which is likely to enable ~~him~~ them to exercise significant influence over that ~~branch~~ establishment; or
 - (b) is someone whose decisions or actions are regularly taken into account by the *governing body* of that ~~branch~~ establishment.
- (3) ~~the chief executive function;~~ [deleted]
- (4) ~~the FCA required functions;~~ [deleted]
- (5) ~~the systems and controls function;~~ [deleted]

- (6) ~~the significant management function~~ in so far as the function relates to:
- (a) ~~designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order; or~~
 - (b) ~~processing confirmations, payments, settlements, insurance claims, client money and similar matters in so far as this relates to designated investment business; and [deleted]~~
- (7) ~~the customer function.~~ [deleted]
- (8) An overseas appointed representative has the same meaning as in SUP 10A.1.5R.

Incoming EEA firms, and incoming Treaty firms ~~and UCITS qualifiers~~

- 10A.1.7 R This chapter does not apply in relation to the appointed representative of:
- (1) an incoming EEA firm; or
 - (2) an incoming Treaty firm; ~~or~~
 - (3) ~~a UCITS qualifier;~~ [deleted]

if and in so far as the question of whether a *person* is fit and proper to perform a particular function in relation to that *firm* is reserved, under any of the *Single Market Directives*, the *Treaty*, ~~the UCITS Directive~~, the *auction regulation* or the *benchmarks regulation*, to an authority in a country or territory outside the *United Kingdom*.

- 10A.1.8 G SUP 10A.1.7R reflects the provisions of section 59(8) of the *Act* and, in relation to an incoming *Treaty firm* ~~and a UCITS qualifier~~, the *Treaty* ~~and the UCITS Directive~~. It preserves the principle of *Home State* prudential regulation. In relation to an *incoming EEA firm* exercising an *EEA right*, or an *incoming Treaty firm* exercising a *Treaty right*, the effect is to reserve to the *Home State regulator* the assessment of the fitness and propriety of a *person* performing a function in the exercise of that right. ~~A member of the governing body, or the notified UK branch manager, of an incoming EEA firm, acting in that capacity, will not therefore have to be approved by the FCA under the Act.~~
- 10A.1.9 G ~~Notwithstanding SUP 10A.1.8G, an incoming EEA firm or incoming Treaty firm will have had to consider the impact of the Host State rules with which it is required to comply when carrying on a passported activity or Treaty activity through a branch in the United Kingdom. An incoming EEA firm will have been notified of those provisions under~~

Part II of Schedule 3 to the Act in the course of satisfying the conditions for *authorisation* in the *United Kingdom*. ~~[deleted]~~

- 10A.1.10 G An *incoming EEA firm* will have to consider, for example, the position of a *branch manager* based in the *United Kingdom* who may also be performing a function in relation to the carrying on of a *regulated activity* not covered by the *EEA right* of the *firm*. In so far as the function is within the description of an *FCA controlled function*, the *firm* will need to seek approval for that *person* to perform that *FCA controlled function*. ~~[deleted]~~

~~Incoming EEA firms: passported activities from a branch~~

- 10A.1.11 R Only the following *FCA controlled functions* apply to an *incoming EEA firm* with respect to its *passported activities* carried on from a *branch* in the *United Kingdom*:

- (1) ~~the money laundering reporting function;~~
- (2) ~~the significant management function, in so far as the function relates to:~~
 - (a) ~~designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order; or~~
 - (b) ~~processing confirmations, payments, settlements, insurance claims, client money and similar matters, in so far as this relates to designated investment business; and~~
 - (c) ~~[deleted]~~
- (3) ~~the customer function other than where this relates to the function in SUP 10A.10.7R(4) and (7). [deleted]~~

...

~~Incoming EEA firms etc with top-up permission activities from a UK branch~~

- 10A.1.13 R In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *FCA controlled functions* apply:
- (1) ~~the FCA required functions, other than the apportionment and oversight function and the compliance oversight function;~~
 - (2) ~~the significant management function, in so far as it relates to:~~
 - (a) ~~designated investment business other than dealing in investments as principal, disregarding article 15 of the Regulated Activities Order; or~~

- (b) ~~processing confirmations, payments, settlements, insurance claims, *client money* and similar matters, in so far as this relates to *designated investment business*; and~~
- (c) ~~[deleted]~~
- (3) ~~the *customer function*. [deleted]~~
- 10A.1.14 R ~~A *person* does not perform the *significant management function* for a *firm* under SUP 10A.1.11R or SUP 10A.1.13R if that *person* would not have been treated as performing any *FCA controlled function* for that *firm* if that *firm* had been a *UK firm*. [deleted]~~

Appointed representatives Exclusions and modifications

- 10A.1.15 R ~~The descriptions of the following *FCA controlled functions* apply to an *appointed representative* of a *firm*, except This chapter does not apply in relation to *CBTL business* or to an *introducer appointed representative*, as they apply to an *FCA authorised person*: .~~
- 10A.1.15A (1) ~~the The *FCA governing functions*, subject to SUP 10A.1.16R and except for do not apply to a *tier 1 agent* of an *EEA MiFID investment firm*; and .~~
- (2) ~~the *customer function* other than in relation to acting in the capacity of an *investment manager* (see SUP 10A.10.7R(6)).~~
- 10A.1.16 R (1) ~~SUP 10A.1.15R This chapter is modified in relation to an *appointed representative* meeting the conditions in (2) so that only one of the following *FCA governing functions*:~~
- (a) ~~*director function*; or~~
- (b) ~~*chief executive function*; or~~
- (c) ~~*partner function*; or~~
- (d) ~~*director of unincorporated association function*;~~
- ~~applies, as appropriate, to an individual within that *appointed representative* who will be required to be an *FCA-approved person*.~~
- (2) ~~...~~
- 10A.1.16A R (-1) ~~This The *customer function* is the only *controlled function* in this chapter that applies to an *appointed representative* that is an *SMCR firm* and has a *limited permission* to carry on a *regulated activity* prescribed for the purposes of section 39(1E)(a) of the *Act* as follows: .~~

- (1) ~~FCA controlled functions apply to the appointed representative as set out in SUP 10A.1.15R and SUP 10A.1.16R in relation to the carrying on of the regulated activity, for which it does not have permission, comprised in the business for which its principal has accepted responsibility; [deleted]~~
- (2) (a) ~~unless it is a not for profit debt advice body, the apportionment and oversight function applies in relation to the carrying on of the regulated activity for which it has limited permission;~~
- (b) ~~if it is a not for profit debt advice body and a CASS large debt management firm, the CASS operational oversight function applies in relation to the carrying on of debt management activity.~~

The customer function applies to the appointed representative in relation to the carrying on of the regulated activity, for which it does not have permission, comprised in the business for which its principal has accepted responsibility.

- 10A.1.16B R ~~SUP 10A.1.15R and SUP 10A.1.16R apply to the appointed representative of an SMCR firm. [deleted]~~
- 10A.1.16C G (1) ~~References in this chapter to a firm include an SMCR firm, but only to the extent required by SUP 10A.1.16BR Certain additional controlled functions apply to a firm in SUP 10A.1.16AR under SUP 10C (FCA senior managers regime for approved persons in SMCR firms).~~
- (2) ~~References in SUP 10A.1.15R and SUP 10A.1.16R to FCA governing functions and other controlled functions are to controlled functions in this chapter, not in SUP 10C (FCA senior managers regime for approved persons in SMCR firms).~~

Senior management functions

- 10A.1.16D G ...
- (2) Generally, the FCA does not think that a person performing a function in ~~SUP 10A.1.16BR~~ this chapter will have sufficient responsibility for managing the affairs of the appointed representative's principal (as opposed to managing the affairs of the appointed representative itself) to perform a senior management function.
- (3) Therefore:
- (a) the FCA has not designated any of the functions in ~~SUP 10A.1.16BR~~ this chapter as a senior management function; and

- (b) none of the functions in ~~SUP 10A.1.16BR~~ this chapter are *designated senior management functions*.

...

...

Members of a profession

...

Benchmark activities

- 10A.1.21A G (1) ~~{deleted}~~
- (2) ~~{deleted}~~
- (3) ~~{deleted}~~
- (4) ~~The *customer function* involves performing various types of activity none of which would be performed by a *firm* which does not carry on any *regulated activities* other than *administering a benchmark* Therefore the *customer function* does not apply to such a *firm*. [deleted]~~

...

Obligations on firms

- 10A.1.33 G (1) The requirements in this chapter about notifications and applications are addressed to *firms*. ~~Where this chapter applies in relation to an *appointed representative*, this~~ This means it applies they are addressed to the *appointed representative's principal*.

...

10A.2 Purpose

- 10A.2.1 G The immediate purpose of SUP 10A.3 to SUP 10A.11 is to specify, under section 59 of the *Act*, descriptions of the *FCA controlled function* which are listed in SUP 10A.4.4R. The underlying purpose is to establish, and mark the boundaries of, the “FCA-approved persons regime” for *appointed representatives*.

10A.3 Provisions related to the Act

...

- 10A.3.3 G *Arrangement* is defined in section 59(10) of the *Act* as any kind of arrangement for the performance of a function which is entered into by a *firm* or any of its contractors with another *person* and includes the

appointment of a *person* to an office, ~~his~~ their becoming a *partner*, or ~~his~~ their employment (whether under a contract of service or otherwise). For the provisions in this chapter relating to outsourcing, see ~~SUP 10A.13.5G~~ and ~~SUP 10A.13.6G~~.

10A.3.4 G ~~If, however, a *firm* is a member of a group, and the *arrangements* for the performance of an *FCA controlled function* of the *firm* are made by, for instance, the *holding company*, the *person* performing the function will only require approval if there is an arrangement (under section 59(1)) or a contract (under section 59(2)) between the *firm* and *holding company* permitting this. This need not be a written contract but could arise, for example, by conduct, custom and practice. [deleted]~~

...

10A.4 Specification of functions

...

10A.4.2 R ~~The *table of FCA controlled functions* applies in relation to an *FCA- authorised person*. It also applies in relation to an *appointed representative* for the purposes of *SUP 10A.1.15R* to *SUP 10A.1.16BR* (*Appointed representatives*) whether its *principal* is an *FCA- authorised person* or a *PRA- authorised person*. [deleted]~~

...

10A.4.4 R FCA controlled functions

(FCA controlled functions for FCA- authorised persons and appointed representatives)		
Type	CF	Description of FCA controlled function
...
Significant management function [*]	29	Significant management function
...
...		

10A.5 Significant-influence functions

What are the FCA significant-influence functions?

- 10A.5.1 G The *FCA significant-influence functions*, which are specified in SUP 10A.4.1R, comprise the *FCA governing functions* (SUP 10A.6) ~~and the significant management function~~ (SUP 10A.9). SUP 10A.5 applies to each of the *FCA significant-influence functions*.

Definition of FCA significant-influence function

...

- 10A.5.3 R A *significant-influence function*, in relation to the carrying on of a regulated activity by ~~a firm~~ an appointed representative, means a function that is likely to enable the *person* responsible for its performance to exercise a significant influence on the conduct of the ~~firm's~~ appointed representative's affairs, so far as relating to the activity.

...

- 10A.5.5 G Whether an *FCA controlled function* is likely to result in the *person* responsible for its performance exercising significant influence ~~on the conduct of the firm's affairs~~ is a question of fact in each case. ~~The FCA has identified the FCA significant-influence functions as satisfying this condition.~~

- 10A.5.5A G A function is not a significant-influence function unless it also meets the requirements of SUP 10A.3.1R (Provisions related to the Act).

Periods of less than 12 weeks

- 10A.5.6 R If:
- (1) a *firm* ~~or its appointed representative~~ appoints an individual to perform a function which, but for this *rule*, would be an *FCA significant-influence function*;

...

- 10A.5.7 G SUP 10A.5.6R enables cover to be given for, as an example, holidays and emergencies and avoids the need for the precautionary approval of, for example, a deputy. However, as soon as it becomes apparent that a *person* will be performing an *FCA controlled function* for more than 12 weeks, the ~~firm~~ authorised approved person employer of the approved person in question should apply for approval.

10A.6 FCA governing functions

Introduction

- 10A.6.1 G Every *firm* appointed representative will have one or more *persons* responsible for directing its affairs. These *persons* will be performing

the *FCA governing functions* and will be required to be *FCA-approved persons* unless the application provisions in *SUP 10A.1*, or the particular description of an *FCA controlled function*, provide otherwise. For example, each *director* of a *company* incorporated under the Companies Acts will perform an *FCA governing function*.

...

~~What the FCA governing functions include~~

- 10A.6.3 R ~~Each of the *FCA governing functions* includes:~~
- (1) ~~(where apportioned under SYSC 4.3.1R and SYSC 4.4.3R (or, for a *full scope UK AIFM* apportioned under article 60(1) of the *AIFMD level 2 regulation*))~~
 - (a) ~~the *systems and controls function* (if it applies to the *firm*); and~~
 - (b) ~~the *significant management function*;~~
 - (2) ~~(in respect of *bidding in emissions auctions*) that part of the *customer function* specified in *SUP 10A.10.7R(7)* (*bidder's representative*).~~

~~This does not apply to the *non-executive director function* or the function described in *SUP 10A.6.8R*. [deleted]~~

- 10A.6.4 G (1) ~~The effect of *SUP 10A.6.3R* is that a *person* who is approved to perform an *FCA governing function* will not have to be specifically *FCA*-approved to perform the *systems and controls function* or the *significant management function* or the part of the *customer function* specified in *SUP 10A.10.7R(7)*. However, a *person* who is approved to perform an *FCA governing function* will have to be additionally *FCA*-approved before he can perform any of the *FCA required functions* or the *customer function* (except the part specified in *SUP 10A.10.7R(7)*).~~
- (2) ~~*SUP 10A.6.3R* does not apply to the *non-executive director function*. It does not apply to the *director function* if the only part of that function that the *FCA approved person* is performing is the function described in *SUP 10A.6.8R*. [deleted]~~

- 10A.6.5 G ~~See *MIPRU 2.2* for how the *FCA's approved persons* regime is adjusted for a *firm* carrying on *insurance distribution activity*. [deleted]~~

Director function (CF1)

- 10A.6.7 R ~~If a *firm* an *appointed representative* is a *body corporate* (other than a *limited liability partnership*), the *director function* is the function of~~

acting in the capacity of a *director* (other than *non-executive director*) of that ~~firm~~ appointed representative.

- 10A.6.8 R (1) If a ~~firm~~ an appointed representative is a *body corporate* (other than a *limited liability partnership*), the *director function* is also the function of acting in the capacity of a *person*:
- (a) who is a *director*, partner, officer, member (if the *parent undertaking* or *holding company* is a *limited liability partnership*), *senior manager*, or employee of a *parent undertaking* or *holding company* of the ~~firm~~ appointed representative; and
 - (b) whose decisions or actions are regularly taken into account by the *governing body* of the ~~firm~~ appointed representative.
- (2) (1) does not apply if that *parent undertaking* or *holding company* has a *Part 4A permission* or is regulated by an *EEA regulator*.
- (3) (1) does not apply to the function falling into *SUP 10A.6.13R* (*non-executive director* of the *parent undertaking* or *holding company*).

- 10A.6.9 G ~~Examples of where SUP 10A.6.8R might apply include (but are not limited to):~~
- (1) ~~a chairman of an audit committee of a parent undertaking or holding company of a UK firm where that audit committee is working for that UK firm (that is, functioning as the audit committee for the group); or~~
 - (2) ~~a director (other than a non-executive director) of a parent undertaking or holding company of a UK firm exercising significant influence by way of his involvement in taking decisions for that UK firm; or~~
 - (3) ~~an individual (such as a senior manager) of a parent undertaking or holding company of a UK firm who is responsible for and/or has significant influence in setting the objectives for and the remuneration of executive directors of that UK firm; or~~
 - (4) ~~an individual who is a director (other than a non-executive director) or a senior manager of a parent undertaking or holding company of a UK firm who is accustomed to influencing the operations of that UK firm, and acts in a manner in which it can reasonably be expected that an executive director or senior manager of that UK firm would act; or~~

- (5) ~~an individual of an overseas firm which maintains an establishment in the United Kingdom from which regulated activities are carried on, where that individual has responsibilities for those regulated activities which are likely to enable him to exercise significant influence over the UK branch. [deleted]~~

...

Non-executive director function (CF2)

- 10A.6.12 R If a ~~firm~~ an appointed representative is a *body corporate*, the *non-executive director function* is the function of acting in the capacity of a *non-executive director* of that ~~firm~~ appointed representative.
- 10A.6.13 R (1) If a ~~firm~~ an appointed representative is a *body corporate*, the *non-executive director function* is also the function of acting in the capacity of a *person*:
- (a) who is a *non-executive director* of a *parent undertaking* or *holding company*; and
- (b) whose decisions or actions are regularly taken into account by the *governing body* of the ~~firm~~ appointed representative.
- (2) However, (1) does not apply if that *parent undertaking* or *holding company* has a *Part 4A permission* or is regulated by an *EEA regulator*.
- 10A.6.14 G ~~Examples of where SUP 10A.6.13R might apply include (but are not limited to):~~
- (1) ~~an individual who is a non-executive director of a parent undertaking or holding company who takes an active role in the running of the business of a UK firm, for example, as a member of a board or committee (on audit or remuneration) of that firm; or~~
- (2) ~~an individual who is a non-executive director of a parent undertaking or holding company having significant influence in setting and monitoring the business strategy of the UK firm; or~~
- (3) ~~an individual who is a non-executive director of a parent undertaking or holding company of a UK firm involved in carrying out responsibilities such as scrutinising the approach of executive management, performance, or standards of conduct of the UK firm; or~~
- (4) ~~an individual who is a non-executive director of a parent undertaking or holding company of a UK firm who is~~

~~accustomed to influence the operations of the UK firm, and acts in a way in which it can reasonably be expected that a non-executive director of the UK firm would act; or~~

- (5) ~~an individual who is a non-executive director of an overseas firm which maintains a branch in the United Kingdom from which regulated activities are carried on where that individual has responsibilities for those regulated activities which are likely to enable him to exercise significant influence over the UK branch. [deleted]~~

Guidance on persons in a parent undertaking or holding company exercising significant influence

- 10A.6.16 G (1) The explanation in SUP 10C.5B.2G of the basis on which the *group entity senior manager function* is included as a *controlled function* for an SMCR firm is also relevant to the basis on which the *director function* and the *non-executive director function* are applied to persons who have a position with the *firm's appointed representative's parent undertaking or holding company* under SUP 10A.6.8R or SUP 10A.6.13R.
- (2) The guidance in SUP 10C.5B.3G to SUP 10C.5B.5G about when the *group entity senior manager function* applies to an SMCR firm is also relevant to when those who have a position with a *firm's an appointed representative's parent undertaking or holding company* may be performing a *controlled function* under SUP 10A.6.8R or SUP 10A.6.13R.

Chief executive function (CF3)

- 10A.6.17 R The *chief executive function* is the function of acting in the capacity of a *chief executive* of ~~a firm~~ an appointed representative.
- 10A.6.18 G This function is having the responsibility, alone or jointly with one or more others, under the immediate authority of the *governing body*:
- (1) for the conduct of the whole of the business (or relevant activities); or
- (2) in the case of a ~~branch~~ branch in the *United Kingdom* of ~~an overseas firm~~ a non-UK appointed representative, for the conduct of all of the activities subject to the *UK regulatory system*.
- 10A.6.19 G For a ~~branch~~ branch in the *United Kingdom* of ~~an overseas firm~~ a non-UK appointed representative, the FCA would not normally expect the overseas *chief executive* of the ~~firm~~ appointed representative as a whole to be FCA-approved for this function where there is a *senior manager* under ~~him~~ them with specific responsibility for those activities of the ~~branch~~ branch which are subject to the *UK regulatory system*. In some

circumstances, the *person* within the ~~firm~~ appointed representative responsible for *UK* operations may, if the function is likely to enable ~~him~~ them to exercise significant influence over the ~~branch~~ branch, also perform the *chief executive function* (see ~~SUP 10A.7.4G~~).

...

Partner function (CF4)

- 10A.6.23 R (1) If a ~~firm~~ an appointed representative is a *partnership*, the *partner function* is the function of acting in the capacity of a *partner* in that ~~firm~~ appointed representative.
- (2) If the principal purpose of the ~~firm~~ appointed representative is to carry on one or more *regulated activities*, each *partner* performs the *partner function*.
- (3) If the principal purpose of the ~~firm~~ appointed representative is other than to carry on *regulated activities*:
- (a) a *partner* performs the *partner function* to the extent only that ~~he has~~ they have responsibility for a *regulated activity*; and
- (b) a *partner* in a ~~firm~~ an appointed representative will be taken to have responsibility for each *regulated activity* except where the *partnership* has apportioned responsibility to another *partner* or group of *partners*.
- 10A.6.26 R If a ~~firm~~ an appointed representative is a *limited liability partnership*, the *partner function* extends to the ~~firm~~ appointed representative as if the ~~firm~~ appointed representative were a *partnership* and a member of the ~~firm~~ appointed representative were a *partner*.

...

Director of unincorporated association function (CF5)

- 10A.6.29 R If a ~~firm~~ an appointed representative is an unincorporated association, the *director of unincorporated association function* is the function of acting in the capacity of a *director* of the unincorporated association.

...

~~Small friendly society function (CF6)~~

SUP 10A.9 (Significant management functions) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted], as shown below.

10A.9 Significant management functions [deleted]

Amend the following as shown.

10A.10 Customer-dealing functions

Introduction

10A.10.1 R *SUP* 10A.10 applies with respect to activities carried on from an establishment maintained by the ~~firm~~ *(or by its appointed representative)* or its principal in the *United Kingdom*.

...

The basic rule about the customer function

...

10A.10.5 R The customer-dealing function, in relation to ~~the carrying on of a regulated activity by a firm~~ an appointed representative ("A"), means a function that will involve the *person* performing it in dealing with:

...

10A.10.5A R In *SUP* 10A.10.5R, customer, in relation to a ~~firm~~ an appointed representative, means a person who is using, or who is or may be contemplating using, any of the services provided by the ~~firm~~ appointed representative.

10A.10.5B G A function is not included in the *customer function* unless it also meets the requirements of *SUP* 10A.3.1R (Provisions related to the Act).

...

10A.10.9 G The *FCA* would expect an individual from overseas to be accompanied on a visit to a *customer*. *TC* 2.1.9R(2) (where it applies) provides that the *firm* will have to be satisfied that the individual has at least three years of up-to-date, relevant experience obtained outside the *United Kingdom*. However, the remaining provisions of *TC* 2.1.9R(2) are disapplied in these circumstances (except for an individual who gives advice to *retail clients* on *retail investment products*, gives advice on *P2P agreements to retail clients* or is a *broker fund adviser*). The effect of this is that such individuals need not attain the relevant regulatory module of an appropriate qualification (see *TC* 2.1.9R(2)).

...

10A.12 Procedures relating to FCA-approved persons

Forms

10A.12.1 G The forms listed in *SUP* 10A.12.2G are referred to in *SUP* 10A.12 (Procedures relating to FCA-approved persons) to ~~*SUP* 10A.17 (Further questions)~~ *SUP* 10A.16 (How to apply for approval and give notifications).

10A.12.2 G Table: FCA-approved persons forms

Form		Purpose	Handbook requirement
the relevant Form A	The relevant online form on the FCA and PRA's online notification and application system or the form in SUP 10A Annex 4D (See Note) SUP 10C Annex 3D	Application to perform controlled functions under the approved persons regime	<i>SUP</i> 10A.13.3D
...			
Form E	The relevant online form on the FCA and PRA's online notification and application system system or the form in SUP 10A Annex 8D (See Note) SUP 10C Annex 7D	Internal transfer of an approved person	<i>SUP</i> 10A.14.4D
Note (1) [deleted]			
Note (2): Where <i>SUP</i> 10A.1.16BR (appointed representative of an SMCR firm) applies, the version of the form to be used is the one required by <i>SUP</i> 10C (FCA senior managers regime for approved persons in SMCR firms).			

10A.12.3 G ~~A summary of the forms and their purposes is in SUP 10A Annex 2. [deleted]~~

10A.12.4 G Unless the context otherwise requires, in *SUP* 10A.12 (Procedures relating to FCA-approved persons) to ~~*SUP* 10A.17 (Further questions)~~

SUP 10A.16 (How to apply for approval and give notifications) where reference is made to a *firm*, this also includes an applicant for *Part 4A permission*, and other *persons* seeking to carry on *regulated activities* as an *authorised person*.

...

10A.13 Application for approval and withdrawing an application for approval

...

How to apply for approval

...

10A.13.3A D If a *firm* must make an application using Form A, it must use Form A (shortened form) if:

- (1) the *candidate*:
 - (a) has *current approved person approval* to perform:
 - (i) an *FCA controlled function* that is a ~~*significant influence function*~~ *significant-influence function*; or

...

...

...

...

Who should make the application?

10A.13.5 G (1) In accordance with section 60 of the *Act* (Applications for approval), applications must be submitted by, or on behalf of, the *firm* itself, not by:

- (a) the *FCA candidate*; or
- (b) ~~(where the *FCA candidate* works for the *firm's parent undertaking or holding company*) by the *firm's parent undertaking or holding company*~~ the *appointed representative*.

(2) ~~Usually this will be the *firm* that is employing the *FCA candidate* to perform the *FCA controlled function*. Where a *firm* has outsourced the performance of an *FCA controlled function*, the details of the outsourcing determine where responsibility lies and whom the *FCA* anticipates will submit *FCA approved*~~

persons application forms. SUP 10A.13.6G describes some common situations. The *firm* which is outsourcing is referred to as “A” and the *person* to whom the performance of the *FCA controlled function* has been outsourced, or which makes the arrangement for the *FCA controlled function* to be performed, is referred to as “B”. In each situation, A must take reasonable care to ensure that, in accordance with section 59(2) of the *Act*, no *person* performs an *FCA controlled function* under an arrangement entered into by its contractor in relation to the carrying on by A of a *regulated activity*, without approval from the *FCA*. See also SYSC 8.1.1R. [deleted]

10A.13.6 G Outsourcing arrangements [deleted]

Outsourcing arrangements		Submitting form
<i>Firm A to firm B</i>	The <i>FCA</i> will consider A to have taken reasonable care if it enters into a contract with B under which B is responsible for ensuring that the relevant <i>FCA controlled functions</i> are performed by <i>FCA approved persons</i> , and that it is reasonable for A to rely on this	<i>Firm B</i> submits <i>FCA approved persons</i> forms on behalf of <i>firm A</i>
Outsourcing by A to B (both being a member of the same <i>United Kingdom</i> group and each having its registered office in the <i>United Kingdom</i>)	See SUP 10A.3.4G	See SUP 15.7.8G
(i) A to B, where B is a non-authorised person not part of the same group as A (ii) A to B, where A is a <i>branch</i> of an <i>overseas firm</i> in the <i>United Kingdom</i> , and B is an <i>overseas undertaking</i> of the same <i>group</i>	Responsibility for (as opposed to the performance of) any activity outsourced to B will remain with A. See SYSC 8	A ensures that an individual approved by the <i>FCA</i> under a controlled function that is a <i>significant-influence function</i> has responsibility for the outsourced arrangement and A submits a form in

(iii) A to B, where A is a UK authorised subsidiary of an overseas firm and B is an overseas undertaking of the same group		relation to that individual
--	--	-----------------------------

...

10A.14 Changes to an FCA-approved person's details

Moving within a firm

...

- 10A.14.2 G If ~~an FCA approved person or a PRA approved person~~
- (1) a firm is applying for approval for someone to perform a controlled function under this chapter; and
 - (2) that person is also ceasing to perform FCA controlled functions or a PRA controlled function, as well as applying for approval in respect of FCA controlled functions within in relation to the same firm firm or in relation to a firm in the same group ;
- the ~~firm~~ firm should generally use Form E. Further details can be found in SUP 10A.14.4D.
- 10A.14.3 G If a *person* is to perform an *FCA controlled function* ~~for~~ under this chapter in relation to a firm for which they already perform an *FCA controlled function* as an *approved person* (whether under this chapter or SUP 10C (FCA senior managers regime for approved persons in SMCR firms)) but they are not at the same time ceasing to perform an *FCA controlled function* or *PRA controlled function* for the *firm* or a *firm* in the same *group*, a *firm* should use Form A. See SUP 10A.13.3D and SUP 10A.13.3AD for further details.
- 10A.14.3A G See SUP 10A.14.23G for circumstances in which a firm should use Form D rather than Form A or E.
- 10A.14.4 D
- (1) A *firm* must use Form E where an *approved person* is both ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more *FCA controlled functions* ~~within~~ in relation to the same firm or in relation to a firm in the same group.
 - (2) A *firm* must not use Form E if:

...

(c) any of the following apply (where applicable):

...

(ii) ...

in relation to any:

(iii) ...

...

(iv) *controlled function* that they are continuing to perform ~~for~~ in relation to that firm or to a firm in the same group.

...

...

Moving between firms

10A.14.6 G If it is proposed that an *FCA-approved person* will no longer be performing an *FCA controlled function* under an *arrangement* entered into by ~~one firm or one of its contractors~~ the appointed representative of one principal, but will be performing the same or a different *FCA controlled function* under an *arrangement* entered into by ~~a new firm or one of its contractors~~ the appointed representative of a new principal (whether or not the new firm is in the same group as the old firm), the new ~~firm~~ principal will be required to make a fresh application for the performance of the *FCA controlled function* by that *person*. This applies even if the new principal is in the same group as the old principal or the appointed representative is the same.

Ceasing to perform an FCA controlled function

10A.14.8 R ...

(2) If:

(a) the *firm* is also making an application for approval for that *approved person* to perform a *controlled function* ~~within~~ in relation to the same firm or to a firm in the same group; and

...

...

10A.14.10 R ...

(2) Form C is qualified if the information it contains:

- (a) relates to the fact that the *firm* or the appointed representative has dismissed, or suspended, the *FCA-approved person* from its employment; or
 - (b) relates to the resignation by the *FCA-approved person* while under investigation by the *firm*, the appointed representative, the *FCA* or any other *regulatory body*; or
- ...

...

Changes to an approved person's personal details

- 10A.14.15 R If an *FCA-approved person's* title, name or national insurance number changes, the *firm* for which the *person* performs an ~~*FCA-controlled function*~~ authorised approved person employer must notify the *FCA* on Form D (*SUP* 10C Annex 6R) of that change within seven *business days* of the *firm* becoming aware of the matter.

...

- 10A.14.21 G (1) If, in relation to a *firm* which has completed the relevant Form A (~~*SUP* 10A Annex 4D~~) (*SUP* 10C Annex 3D), any of the details relating to arrangements and *FCA controlled functions* are to change, the *firm* must notify the *FCA* on Form D (*SUP* 10C Annex 6R).

...

...

10A.15 References and accurate information

References

- 10A.15.1 G (1) *SYSC* 22 (Regulatory references) says that if a *firm* (A):
- (a) is considering appointing a *person* (P) to perform any *controlled function* or certain other functions;
 - (b) requests a reference from a *firm* (B) that is P's current or former *employer*; and
 - (c) indicates to B the purpose of the request;
- B should, as soon as reasonably practicable, give a reference to A.
- (2) ~~This applies even if A is a *firm* to which *SUP* 10C (FCA senior managers regime for approved persons in SMCR firms)) applies rather than this chapter.~~ *SYSC* 22.8.3R and *SYSC* 22.8.4R

(Appointed representatives) say that this applies to B's appointed representatives as well as to B.

...

The need for complete and accurate information

- 10A.15.4 G The obligations to supply information to the *FCA* under either *SUP* 10A.14.8R or *SUP* 10A.14.10R 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* or its appointed representative and an *employee* upon termination of the *employee's* employment. A *firm* should not (and should ensure that its appointed representatives do not) enter into any such arrangements or agreements that could conflict with its obligations under this section.

...

10A.16 How to apply for approval and give notifications

- 10A.16.1 D (1) This direction applies to an application under Form A or Form E.
- (2) An application by a *firm* must be made by submitting the Form online at fea.org.uk using the form specified on the *FCA's* and *PRA's* online notification and application system in accordance with the requirements in *SUP* 10C.15 (Forms and other documents and how to submit them to the *FCA*) about the submission of those Forms.
- ...
- (4) ~~Where a *firm* is obliged to submit an application online under (2), if the information technology systems used by the *FCA* fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a *firm* must use the form in *SUP* 10A Annex 4D or *SUP* 10A Annex 8D and submit it in the way set out in *SUP* 15.7.4R to *SUP* 15.7.9G (Form and method of notification). [deleted]~~
- (5) ~~An application by a *firm* in relation to a controlled function to which *SUP* 10A.1.16BR (*appointed representative* of an *SMCR firm*) applies must be made in accordance with *SUP* 10C.15 (Forms and other documents and how to submit them to the *FCA*) and not this section. [deleted]~~
- 10A.16.2 R (1) This *rule* applies to a notification under Form B, Form C or Form D.
- (2) A notification must be made in accordance with *SUP* 10A.16.1D, ~~except that the annexes in which the forms are to be~~

found are ~~SUP 10C Annex 5R or SUP 10C Annex 6R~~, rather than the Annexes mentioned in ~~SUP 10A.16.1D~~ the requirements in SUP 10C.15 (Forms and other documents and how to submit them to the FCA) about the submission of those Forms.

- (3) ~~A notification by a firm in relation to a controlled function to which SUP 10A.1.16BR (appointed representative of an SMCR firm) applies must be made in accordance with SUP 10C.15 (Forms and other documents and how to submit them to the FCA) and not this section. [deleted]~~
- 10A.16.2A R ~~SUP 10A.16.2R(3) rule also applies to Form B in relation to a controlled function to which SUP 10A.1.16BR (appointed representative of an SMCR firm) applies. [deleted]~~
- 10A.16.3 G ~~If the information technology systems used by the FCA fail and online submission is unavailable for 24 hours or more, the FCA and PRA will endeavour to publish a notice on their websites confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 10A.16.1D(4) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used. [deleted]~~
- 10A.16.4 G ~~Where SUP 10A.16.1D(4) or the equivalent situation under SUP 10A.16.2R applies to a firm, GEN 1.3.2R (Emergency) does not apply. [deleted]~~

SUP 10A.17 (Further questions) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted], as shown below.

10A.17 Further questions [deleted]

Delete the following Annexes. The deleted text of each Annex is not shown but they are marked [deleted] as shown below.

10A Annex 1G Frequently asked questions [deleted]

10A Annex 2G Approved persons regime: summary of forms and their use for applications for approval to perform an FCA-controlled function [deleted]

10A Annex 4D **Form A: Application to perform controlled functions under the approved person regime** ~~[deleted]~~

10A Annex 8D **Form E: Internal transfer of an approved person** ~~[deleted]~~

Amend the following as shown.

10C **FCA senior managers regime for approved persons in SMCR firms**

10C.1 **Application**

General

...

10C.1.2A G *SUP* 10C Annex 1 (What functions apply to what type of firm) sets out:

(1) ...

(2) the *SMCR firms* to which no controlled functions in this chapter ~~does not~~ apply.

...

Appointed representatives

10C.1.7 R This chapter does not deal with an *approved person* who is approved under ~~*SUP* 10A.1.16BR (Appointed representatives)~~ *SUP* 10A (FCA Approved Persons in Appointed Representatives).

10C.1.8 G (1) ~~*SUP* 10A.1.15R to *SUP* 10A.1.16DG (Appointed representatives) deal~~ *SUP* 10A (FCA Approved Persons in Appointed Representatives) deals with the *approved persons* regime for *appointed representatives* of *SMCR firms*.

...

...

10C.3 **General material about the definition of controlled functions**

...

Types of controlled function

...

10C.3.4 G The *FCA* has (in *SUP* 10A (FCA Approved Persons in Appointed Representatives)) specified *controlled functions* for *SMCR firms* that are not *designated senior management functions*. (~~See *SUP* 10C.1.7R to *SUP* 10C.1.8G (Appointed representatives)~~).

...

10C.4 Specification of functions

...

10C.4.4 G As described in *SUP* 10C.1.7R to *SUP* 10C.1.8G (Appointed representatives), *SUP* 10A (FCA Approved Persons in Appointed Representatives) specifies certain other *controlled functions* for *SMCR firms*.

...

10C.4A FCA governing functions: General

...

Sole traders

10C.4A.2 G (1) An individual *sole trader* themselves will not need approval to perform any of the FCA governing functions. Therefore the FCA governing functions do not apply to a *sole trader* with no employees.

(2) It is possible, although perhaps not likely in practice, that the FCA governing functions could apply to staff working for the *sole trader*.

...

...

10C.6 ~~FCA required functions~~ FCA required functions

...

Limited scope function (SMF29)

10C.6.5 R The *limited scope function* is the function of acting in the capacity of a *person*;

(1) responsible for the apportionment function and/or the oversight function set out in *SYSC* 4.4.5R;

- (2) who has the responsibility allocated under MAR 8.5.2R (Responsibility for benchmark activities: regulated benchmark administrators); or
- (3) performing the role of the senior manager described in MAR 8.5.4R(2) (Responsibility for benchmark activities: regulated benchmark administrators).

10C.6.6 G ~~The fact that there is a person performing the limited scope function, and who has responsibility for activities subject to regulation by the FCA, may have a bearing on whether a manager who is based overseas will be performing an FCA controlled function. It is a factor to take into account when assessing the likely influence of the overseas manager.~~
[deleted]

...

10C.6B Systems and controls functions: Other

...

The chief operations function (SMF24)

- 10C.6B.2 R (1) ...
- (2) ...
- (b) the matters to which any of the FCA required functions relate; or
- ...
- ...

...

10C.7 Other overall responsibility function (SMF18)

...

Definition

...

10C.7.3 G

Example	Comments
...	...

<p>(9) ‘A’ is appointed to a role for Firm X that comes within the PRA’s Head of Key Business Area <i>designated senior management function</i>. It is also a potential <i>other overall responsibility function</i>. Later, the firm reorganises—A’s role stays the same but now it falls outside the PRA’s Head of Key Business Area <i>designated senior management function</i>.</p>	<p>...</p> <p>The relevant PRA rules can be found in Chapter 2 of the part of the PRA Rulebook titled ‘Senior Management Functions’, <u>Chapter 2 of the part of the PRA Rulebook titled ‘Insurance - Senior Management Functions’ and Chapter 2 of the part of the PRA Rulebook titled ‘Large Non-Solvency II Firms – Senior Management Functions’.</u></p> <p>This example only applies if Firm X is an SMCR banking firm. If Firm X is an insurer it will need to obtain FCA approval before the reorganisation takes effect as the relevant PRA insurance rules are different from the ones for SMCR banking firms.</p>
<p>...</p>	<p>...</p>

...

10C.10 Application for approval and withdrawing an application for approval

...

How to apply for approval

...

10C.10.8A D If a firm must make an application using Form A, it must use Form A (shortened form) if:

- (1) the candidate:
 - (a) has current approved person approval to perform:
 - (i) an FCA controlled function that is a ~~significant influence function~~ significant-influence function; or

...

...

...

...

- 10C.10.9 D (1) ...
- (2) A *firm* must not use Form E if the *approved person* has never before been approved to perform for any *firm*:
- (a) an *FCA controlled function* that is a ~~*significant influence function*~~ *significant-influence function*; or
- ...
- (3) A *firm* must not use Form E if the *approved person* has not been subject to a *current approved person approval* from the *FCA* or *PRA* to perform for any *firm* for more than six months:
- (a) an *FCA controlled function* that is a ~~*significant influence function*~~ *significant-influence function*; or
- ...
- ...

...

10C.12 Conditional and time-limited approvals

Purpose

...

- 10C.12.2 G ...
- (3) The *FCA* has (in *SUP* 10A (FCA Approved Persons in Appointed Representatives)) specified *controlled functions* for *SMCR firms* that are not *designated senior management functions*. See *SUP* 10C.1.7R to *SUP* 10C.1.8G (Appointed representatives) for more about this.
- ...

...

10C.15 Forms and other documents and how to submit them to the FCA

...

Forms and documents

...

- 10C.15.3 G Table: FCA approved persons forms and other documents

Form or other document		Purpose	Handbook requirement
...
Form B	SUP 10C Annex 4R	Notice to withdraw an application to perform <i>controlled functions</i> under the <i>approved persons senior managers</i> regime	SUP 10C.10.36R
	
...
Annex III template	...	...	...
[Note: Some of these forms are also used for the purposes of SUP 10A (FCA Approved Persons in Appointed Representatives)]			

...

10C.16 References and accurate information

References

- 10C.16.1 R ~~(1)~~ SYSC 22 (Regulatory references) says that if a *firm* (A):
- ~~(1)~~ ~~(a)~~ is considering appointing a *person* (P) to perform any *controlled function* or certain other functions;
 - ~~(2)~~ ~~(b)~~ requests a reference from a *firm* (B) that is P’s current or former *employer*; and
 - ~~(3)~~ ~~(c)~~ indicates to B the purpose of the request;
- B should, as soon as reasonably practicable, give a reference to A.
- ~~(2)~~ This applies even if A is a *firm* to which SUP 10A (FCA Approved Persons) applies rather than this chapter.

...

10C What functions apply to what type of firm

Annex 1

Part One: Introduction

...

1.3 G ...

(3) Another reason would be if the *rules* defining the *FCA controlled function* refer to a *rule* elsewhere in the *FCA Handbook* and the latter only applies to certain types of *firm*. For example 5.2

(a) SYSC 1 Annex 1 (Detailed application of SYSC) cuts back the application of some of the *FCA required functions*;

(b) see the entry for this chapter in the table in *BENCH 2.1.2G* (Parts of the Handbook applicable to the regulated activity of administering a benchmark) for an example relating to *FCA required functions*.

...

...

Part Seven: Functions applying to limited scope firms

7.1 R *Limited scope SMCR firms* are divided into the following categories for the purposes of SUP 10C Annex 1:

(1) a *firm* falling within the table in SYSC 23 Annex 1 6.4R that does not come within (2) to (4A) or (8) to (9);

...

(4) ...

(4A) a *limited scope SMCR benchmark firm*;

(5) a *sole trader* who does not come within (1) to (4A), (8) or (9);

(6) an *authorised professional firm* that does not come within (1) to (4A), (8) or (9);

...

...

7.3 R (1) The table in SUP 10C Annex 1 7.4R sets out which FCA controlled functions apply to a limited scope SMCR firm covered by SUP 10C Annex 1 7.1R(1), (2), (3), (4), (4A), (8) or (9).

...

7.4 R Table: Controlled functions applying to limited scope SMCR firms except sole traders and authorised professional firms

Part 1.1 (UK and non-EEA firms)						
(1) Brief description of function	(2) Function number	(3) General	(4) Insurance distribution firms	(5) Credit firms	(6) Consumer credit appointed representatives	(7) <u>Benchmark firms</u>
Governing functions						
The governing functions that apply to core SMCR firms	Various	...	...	...	...	✗
Required functions						
Compliance oversight function	SMF 16	...	...	...	...	✗
Money laundering reporting function	SMF 17	...	...	...	...	✗
Limited scope function	SMF 29	...	...	...	...	✓

...

Notes to the table	
<p>Note (1): The categories of <i>firm</i> in the column headings of this table are to be interpreted in accordance with the classification of <i>firms</i> at SUP 10C Annex 1 7.1R. Therefore:</p> <p>...</p> <p>(4) column six of Parts 1.1 and 1.2 of the table (Consumer credit appointed representatives) refers to SUP 10C Annex 1 7.1R(4);</p> <p><u>(5) column seven of Part 1.1 of the table (Benchmark firms) refers to SUP 10C Annex 1 7.1R(4A);</u></p> <p>(4 <u>6</u>) column three of Part 2 of the table (Class 1 claims management firms) refers to SUP 10C Annex 1 7.1R(8); and</p> <p>(<u>5</u> <u>7</u>) column four of Part 2 of the table (Other Claims management firms) refers to SUP 10C Annex 1 7.1R(9).</p>	
...	

- 7.5 R (1) ...
- (2) The FCA *required functions* apply in relation to the carrying on of the *regulated activity* for which it has *limited permission*.
- (3) The FCA *governing functions* apply in relation to the carrying on of the *regulated activity*, for which it does not have *permission*, comprised in the business for which its *principal* has accepted responsibility.
- (4) If the *appointed representative* meets the conditions in SUP 10A.1.16R(2), only one of the FCA *governing functions* applies under (3), as appropriate, to an individual within that *appointed representative* who will be required to be an *FCA-approved person*.
- ...
- 7.11 G (1) ...
- (2) ...
- (a) In practice it is unlikely that the FCA *governing functions* will apply to a sole trader (see SUP 10C.4A.2G).
- ...
- ...

10C Summary of forms and their use in the senior managers regime
Annex
2G

Function	Form	Submission
...
<p>(2) The <i>candidate</i> is to perform an <i>FCA-designated senior management function</i> and either:</p> <p>(a) has current approval to perform an <i>FCA controlled function</i> that is a <i>significant influence function</i> <i>significant-influence function</i>, an <i>FCA-designated senior management function</i>, or a <i>PRA controlled function</i>; or</p> <p>(b) ...</p>
...
<p>(4) Either:</p> <p>(a) <i>candidate</i> is seeking to perform an <i>FCA-designated senior management function</i> for the first time and has never been approved to perform an <i>FCA controlled function</i> that is a <i>significant influence function</i> <i>significant-influence function</i> or a <i>PRA controlled function</i> before; or</p> <p>(b) <i>candidate</i> ceased to have approval from the <i>FCA</i> or <i>PRA</i> to perform an <i>FCA controlled function</i> that is a <i>significant influence function</i> <i>significant-influence function</i>, an <i>FCA-designated senior management function</i> or a <i>PRA controlled function</i> more than six months ago.</p>
...
<p>(18) <i>Person</i> (P) has approval to perform a <u>an <i>FCA governing function</i> under SUP 10A (FCA Approved Persons in Appointed Representatives)</u> for an <i>appointed representative</i> of an <i>SMCR firm</i> (F). P then takes up an <i>FCA-designated senior management function</i> position with F itself</p>	E	<p>Submitted by F to the <i>FCA</i> before changes take place.</p> <p>F should use a Form E because <u>the function P performs for the appointed representative</u> is treated as performing <u>being performed in relation to F and so</u></p>

and gives up their role with the <i>appointed representative</i> .		<u>P is applying for approval to perform an FCA-designated senior management function for in relation to the same firm (F).</u>
--	--	---

...

12 Appointed representatives

...

12.6 Continuing obligations of firms with appointed representatives or EEA tied agents

...

Obligations of firms under the approved persons and senior managers regime

12.6.8 G (1) ~~Some of the *controlled functions*, as set out in SUP 10A.4.1R, SUP 10A apply~~ applies certain *controlled functions* to an *appointed representative* of a firm, other than an *introducer appointed representative*, just as they apply to a firm (see SUP 10A.1.15R). These are the *governing functions* and the *customer function*. In the case of an *appointed representative* that also has a *limited permission*, an *FCA-designated senior management function* may apply to it and SUP 10C may apply in addition to SUP 10A.

(2) {deleted}

(3) {deleted}

(4) {deleted}

...

13A Qualifying for authorisation under the Act

...

**13A Application of the Handbook to Incoming EEA Firms
Annex 1G**

...

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of a	(3) Potential application to an incoming EEA firm with respect to activities carried on
------------------------	--	---

	firm (or its appointed representative) in the United Kingdom	other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...
<i>APER</i>	<i>APER applies to approved persons of firms other than appointed representatives of SMCR firms. See below under SUP 10A as to whether controlled functions are performed, and approval therefore required.</i>	Not relevant because SUP 10A does not apply
...
<i>SUP</i>	...	...
	<p>SUP 10A (FCA Approved persons in Appointed Representatives)</p> <p>Applies to an <i>EEA firm</i> that is not an <i>SMCR firm</i>, but the applicable <i>controlled functions</i> are limited. See <i>SUP 10A.1 (Application)</i> for more detailed <i>guidance</i> and has <i>appointed representatives</i>.</p>	<p>SUP 10A (FCA Approved persons in Appointed Representatives)</p> <p>Does not apply (<i>SUP 10A.1.6R</i>).</p>

...

...

15 Notifications to the FCA

15.1 Application

...

SMCR firms

15.1.7 R The following apply only to *SMCR firms*:

- (1) *SUP 15.2.5G (Purpose)*;

- (2) *SUP* 15.11 (Notification of COCON breaches and disciplinary action);
- (3) *SUP* 15.15 (Enhanced scope SMCR firm retail intermediaries); ~~and~~
- (4) *SUP* 15.16 (Notification of changes in the management body); and
- (5) *SUP* 15.17 (Notification by limited scope SMCR benchmark firm).

...

15.3 General notification requirements

...

Breaches of rules and other requirements in or under the Act or the CCA

...

- 15.3.14A G (1) Some matters that need to be notified under *SUP* 15.3.11R may also have to be notified under *SUP* 10A.14 or *SUP* 10C.14 (Changes to an FCA-approved person's details).

...

...

Insert a new section, *SUP* 15.17, after *SUP* 15.16 (Notification of changes in the management body). The text is not underlined.

15.17 Notification of regulated income by limited scope SMCR benchmark firm

Application

- 15.17.1 R This section of the *FCA Handbook* applies to a *limited scope SMCR benchmark firm*.

Purpose

- 15.17.2 G (1) As explained in *SYSC* 23 Annex 1 6.12R, the *FCA* may grant a *waiver* to certain benchmark *firms* that treats them as a *limited scope SMCR firm*.
- (2) One of the eligibility conditions that the *FCA* anticipates it will apply is that the *firm's* income from benchmark activities is below 20% of its total income.

- (3) The purpose of this section of the *FCA Handbook* is to allow the *FCA* to monitor whether a *firm* continues to meet that condition after it has received the *waiver*.
- (4) The *waiver* may modify or replace this section to be consistent with the basis on which a *firm* receives the *waiver* if the *firm* receives the *waiver*:
 - (a) on a different basis from the one described in (2);
 - (b) on the basis of an adjusted calculation of revenue as contemplated by SYSC 23 Annex 1 6.17G(5) (Benchmark firms: When the waiver is likely to be available); or
 - (c) on some other basis inconsistent with this section.

Definitions

- 15.17.3 R In this section of the *FCA Handbook*:
- (1) a *firm's* reporting year means the annual period in respect of which it prepares its *annual financial statements*;
 - (2) reporting date is defined in SUP 15.17.9R;
 - (3) annual regulated income is defined in SUP 15.17.6R;
 - (4) annual income is defined in SUP 15.17.5R.

Obligation to make calculations

- 15.17.4 R A *firm* must calculate, for each reporting year, whether or not its annual regulated income is less than 20% of its annual income.
- 15.17.5 R A *firm's* annual income for a reporting year is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the *firm's* *annual financial statements* for that reporting year.
- 15.17.6 R A *firm's* annual regulated income is its annual income in respect of, or in relation to, activities in the *United Kingdom* that comprise a necessary part of its business as a *regulated benchmark administrator*.
- 15.17.7 R
- (1) Where the sales and marketing of a benchmark are undertaken by a separate legal entity, the *firm* is responsible for identifying the relevant income and treating it as its own income.
 - (2) To avoid double counting, the *firm* must include only the income from sales and exclude any amount paid to it from that income to pay for its expenses as a *regulated benchmark administrator*.

- 15.17.8 R A *firm* must calculate its annual regulated income fairly, consistently and in accordance with generally accepted accounting practice.
- 15.17.9 R (1) A *firm* must complete the calculation in SUP 15.17.4R no later than 80 *business days* after the *accounting reference date* for the applicable reporting year.
- (2) This section of the *FCA Handbook* refers to the date in this *rule* as the ‘reporting date’.

Obligation to notify the FCA

- 15.17.10 R A *firm* must notify the *FCA* if its annual regulated income is 20% or more of its annual income for a reporting year if, in the previous reporting year, its annual regulated income was less than 20% of its annual income or it had no annual income.
- 15.17.11 R A *firm* must notify the *FCA* if its annual regulated income is less than 20% of its annual income for a reporting year if, in the previous reporting year, its annual regulated income was 20% or more of its annual income.
- 15.17.12 R A *firm* must make the notification in SUP 15.7.10R or SUP 15.17.11R no later than the reporting date for the reporting year in question.
- 15.17.13 G The notification obligations in this section apply whether this is the first time the relevant event has occurred or whether it has happened before.
- 15.17.14 G A *firm* need not include the amount of its annual regulated income or annual income in a notification under this section.
- 15.17.15 G A *firm’s* reporting year may start or end before it became a *firm* or a *limited scope SMCR benchmark firm*.
- 15.17.16 G A *firm* should make the notification in SUP 15.7.10R even if it had no annual regulated income in the previous reporting year because, for example, it has only recently started its benchmark activities.
- 15.17.17 G (1) This section of the *FCA Handbook* does not require a *firm* regularly to notify the *FCA* whether its annual regulated income is 20% or more of its annual income or less than 20%.
- (2) Instead this section only requires a *firm* to notify the *FCA* when its annual regulated income crosses (upwards or downwards) the 20% mark.
- (3) So, for example, if the *firm’s* annual regulated income stays below the 20% mark it will never need to notify the *FCA* under this section.

How to submit notifications

- 15.17.18 R A *firm* does not have to use the form in SUP 15 Annex 4R (Notification form) to make a notification under this section of the *FCA Handbook* but

must include the details required by Section A of that form (Personal Details).

- 15.17.19 G Subject to *SUP 15.17.18R*, *SUP 15.7* (Form and method of notification) applies to notifications under this section of the *FCA Handbook*.

Amend the following as shown.

15 Annex 1R Application of SUP 15 to incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions and EEA authorised electronic money institutions

1.	<i>SUP 15</i> applies in full to an <i>incoming EEA firm</i> , or <i>incoming Treaty firm</i> , which has a <i>top-up permission</i> . However, <i>SUP 15.16</i> does <u><i>SUP 15.15</i> to <i>SUP 15.17</i></u> do not apply to such <i>firms</i> .				
...					

Applicable sections		Application
...
<i>SUP 15.14</i>	...	...
<u><i>SUP 15.15</i></u>	<u>Notification by retail intermediaries of qualification as an enhanced scope SMCR firm</u>	<u>Does not apply</u>
<i>SUP 15.16</i>	...	...
<u><i>SUP 15.17</i></u>	<u>Notification of regulated income by limited scope SMCR benchmark firm</u>	<u>Does not apply</u>

...

16 Reporting requirements

...

16.26 Reporting of information about Directory persons

Application

16.26.1 R This section of the *FCA Handbook* applies to an *SMCR firm* but it does not apply to a *pure benchmark SMCR firm*.

...

Annex I

Amendments to Professional Firms sourcebook (PROF)

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

5 Non-mainstream regulated activities

...

5.3 Reference to other sourcebooks and manuals

...

Supervision manual

- 5.3.5 G ~~SUP 10A.1.17R~~ SUP 10C Annex 1 2.1R provides that ~~SUP 10A (Approved persons)~~ SUP 10C (FCA senior managers regime for approved persons in SMCR firms) does not apply (except in respect of the FCA required functions) to an *authorised professional firm* in respect of its *non-mainstream regulated activities*. So a person such as a *partner*, whose only *regulated activities* are incidental to ~~his~~ their professional services, in an *authorised professional firm* whose principal purpose is to carry on activities other than *regulated activities*, need not be an *approved person*.

...

Annex J

Amendments to General guidance on Benchmark Administration, Contribution and Use (BENCH)

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

2 Parts of the Handbook applicable to regulated benchmark administrators and benchmark contributors

...

2.1 Parts of the Handbook applicable to regulated benchmark administrators and benchmark contributors

...

2.1.2 G Parts of the *Handbook* applicable to the *regulated activity* of *administering a benchmark*.

	Part of the Handbook	Applicability to the <i>regulated activity</i> of <i>administering a benchmark</i>
High Level Standards	...	...
	Senior Management Arrangements, Systems and Controls (SYSC)	The detailed application of this is set out in SYSC 1 Annex 1. However, in general, only the following parts of SYSC will be relevant to a <i>firm</i> which only has <i>permission</i> to carry on the <i>regulated activity</i> of <i>administering a benchmark</i> : (a) SYSC 1; (b) SYSC 18.3.9G; (c) SYSC 22 <u>to SYSC 26</u> .
	Statements of Principle and Code of Practice for Approved Persons (APER)	This applies to an approved person of a firm that is not an SMCR firm <u>does not apply</u>
	Code of Conduct sourcebook (COCON)	This applies to <u>a firm's conduct rules</u> staff of SMCR firms .

...
Regulatory processes	Supervision manual (<i>SUP</i>)	<p>This applies subject to the following qualifications:</p> <p>(a) In general only the following parts of <i>SUP</i> will be relevant to a <i>firm</i> which only has <i>permission</i> to carry on the <i>regulated activity</i> of <i>administering a benchmark</i>: <i>SUP</i> 1-2, <i>SUP</i> 5-8, <i>SUP</i> 9-10A, <u><i>SUP</i> 10C</u>, <i>SUP</i> 15-15B, <i>SUP</i> 16.1-16.3 and <i>SUP</i> 16.10.</p> <p>(b) <i>SUP</i> 10A only applies to a <i>regulated benchmark administrator</i> which is not an <i>SMCR firm</i> (but not all <i>controlled functions</i> apply to a <i>firm</i> which only has <i>permission</i> to carry on the <i>regulated activity</i> of <i>administering a benchmark</i>). [deleted]</p> <p>(c) <i>SUP</i> 10C only applies to a <i>regulated benchmark administrator</i> which is an <i>SMCR firm</i> and so <i>SUP</i> 10C applies to it. That chapter deals with the <i>designated senior management functions</i> that apply to a <i>regulated benchmark administrator</i> and other <i>SMCR firms</i>.</p> <p><u>If a <i>regulated benchmark administrator</i> is a <i>core SMCR firm</i>, the following <i>FCA-designated senior management functions</i>, which normally apply to a <i>core SMCR firm</i>, do not apply:</u></p> <p>(i) <u>the <i>compliance oversight function</i>; and</u></p> <p>(ii) <u>the <i>money laundering reporting function</i>.</u></p> <p><u>That is because those <i>FCA-designated senior management functions</i> are specified by incorporation of requirements in <i>SYSC</i> and the relevant parts of <i>SYSC</i> do not apply in relation to <i>benchmark activities</i> (which includes <i>administering a benchmark</i>).</u></p>

...