

## SOURCEBOOK

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# SYSC Senior Management Arrangements, Systems and Controls

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## CHAPTER

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# SYSC 4 General organisational requirements

## Section : SYSC 4.1 General requirements

### Application to a common platform firm

SYSC 4.1.-2

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For a *common platform firm*:

- (1) [deleted]
- (2) the *rules* and *guidance* apply as set out in the table below:

Subject	Applicable rule or guidance
General requirements	<i>SYSC 4.1.1R, SYSC 4.1.1-AR, SYSC 4.1.2R</i>
Business continuity	<i>SYSC 4.1.6R, SYSC 4.1.7R, SYSC 4.1.8G</i>
Audit committee	<i>SYSC 4.1.11G, SYSC 4.1.13G, SYSC 4.1.14G</i>
Persons who effectively direct the business	<i>SYSC 4.2.1R, SYSC 4.2.2R, SYSC 4.2.3G, SYSC 4.2.4G, SYSC 4.2.5G, SYSC 4.2.6R</i>
Responsibility of senior personnel	<i>SYSC 4.3.2-AR, SYSC 4.3.3G</i>
Management body	<i>SYSC 4.3A.-1R to SYSC 4.3A.7R</i>
Nominations committee	<i>SYSC 4.3A.8R to SYSC 4.3A.11R</i>

### Application to a MiFID optional exemption firm and to a third country firm

SYSC 4.1.-1

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For a *MiFID optional exemption firm* and a *third country firm*:

- (1) the *rules* and *guidance* in this chapter apply to them as if they were *rules* or as *guidance* in accordance with *SYSC 1 Annex 1* 3.2CR(1).
- (2) [deleted]

### General requirements

SYSC 4.1.1

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- (1) A *firm* must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.

- (2) [deleted]

[**Note:** article 74 (1) of *CRD*, article 16(5) second paragraph of *MiFID*, article 12(1)(a) of the *UCITS Directive*, and article 18(1) of *AIFMD*]

(3) Without prejudice to the ability of the *FCA* or any other relevant *competent authority* to require access to communications in accordance with *MiFID* and *MiFIR*, a *common platform firm* must have sound security mechanisms in place for the following, while maintaining the confidentiality of the data at all times:

- (a) to guarantee the security and authentication of the means of transfer of information;
- (b) to minimise the risk of data corruption and unauthorised access; and
- (c) to prevent information leakage.

[Note: article 16(5) third paragraph of *MiFID*]

#### SYSC 4.1.1-A

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(1) A *common platform firm* must, taking into account the nature, scale and complexity of its business, and the nature and range of the activities carried on in the course of its *designated investment business*, comply with the following organisational requirements:

- (a) establish, implement and maintain decision-making procedures and an organisational structure which clearly and in a documented manner specifies reporting lines and allocates functions and responsibilities;
- (b) establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the *common platform firm*;
- (c) establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the *common platform firm*; and
- (d) maintain adequate and orderly records of its business and internal organisation.

(2) A *common platform firm* must establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

(3) A *common platform firm* must establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, the preservation of essential data and functions and the maintenance of its *designated investment business*, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its *designated investment business*.

(4) A *common platform firm* must establish, implement and maintain accounting policies and procedures that enable it, at the request of the *FCA*, to deliver in a timely manner to the *FCA* financial reports which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules.

(5) A *common platform firm* must monitor and, on a regular basis, evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements established in accordance with *SYSC 4.1.1-AR(1)* to (4), *SYSC 5.1.1R*, *SYSC 5.1.6R*, *SYSC 5.1.12R*, *SYSC 5.1.13R* and *SYSC 5.1.14R*, and take appropriate measures to address any deficiencies.

SYSC 4.1.1A	R	A <i>full-scope UK AIFM</i> must comply with the <i>AIFM Remuneration Code</i> . [Note: article 13(1) of <i>AIFMD</i> ]
SYSC 4.1.1B	R	A <i>full-scope UK AIFM</i> must, in particular: <ul style="list-style-type: none"> <li>(1) have rules for personal transactions by its <i>employees</i> or for the holding or management of investments it invests on its own account;</li> <li>(2) ensure that each transaction involving the <i>AIFs</i> may be reconstructed according to its origin, the parties to it, its nature, and the time and place at which it was effected; and</li> <li>(3) ensure that the assets of the <i>AIFs</i> managed by the <i>AIFM</i> are invested in accordance with the <i>instrument constituting the fund</i> and the legal provisions in force.</li> </ul> [Note: article 18(1) second paragraph of <i>AIFMD</i> ]
SYSC 4.1.1D	R	A <i>UK UCITS management company</i> must comply with the <i>UCITS Remuneration Code</i> if it manages a <i>UCITS scheme</i> . [Note: article 14a(1) of the <i>UCITS Directive</i> ]
SYSC 4.1.1E	R	A <i>UK UCITS management company</i> must have appropriate procedures for its employees to report potential or actual breaches of <i>UK</i> provisions which implemented the <i>UCITS Directive</i> internally through a specific, independent and autonomous channel. [Note: article 99d(5) of the <i>UCITS Directive</i> ]
SYSC 4.1.1F	G	<i>SYSC 18</i> (Guidance on Public Interest Disclosure Act: Whistleblowing) contains further <i>guidance</i> on the effect of the <i>Public Interest Disclosure Act 1998</i> in the context of the relationship between <i>firms</i> and the <i>FCA</i> .
SYSC 4.1.2	R	For a <i>common platform firm</i> , the arrangements, processes and mechanisms referred to in <i>SYSC 4.1.1 R</i> must be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and of the <i>common platform firm's</i> activities and must take into account the specific technical criteria described in <i>SYSC 4.1.1-AR(3)</i> , <i>SYSC 5.1.7 R</i> , <i>SYSC 7</i> and whichever of the following is applicable: <ul style="list-style-type: none"> <li>(1) [deleted];</li> <li>(2) (for a <i>full-scope UK AIFM</i>) <i>SYSC 19B</i> (AIFM Remuneration Code);</li> <li>(3) [deleted];</li> <li>(4) (for a <i>firm</i> to which <i>SYSC 19D</i> applies) <i>SYSC 19D</i> (Dual-regulated firms Remuneration Code);</li> <li>(5) (for a <i>firm</i> to which the remuneration part of the <i>PRA Rulebook</i> applies) the remuneration part of the <i>PRA Rulebook</i>; or</li> <li>(6) (for a firm to which <i>SYSC 19G</i> applies) <i>SYSC 19G</i> (MIFIDPRU Remuneration Code).</li> </ul>

**SYSC 4.1.2A** **G** Other *firms* should take account of the comprehensiveness and proportionality *rule* (*SYSC 4.1.2 R*) as if it were *guidance* (and as if "should" appeared in that *rule* instead of "must") as explained in *SYSC 1 Annex 1* 3.3 R(1).

**SYSC 4.1.2B** **R** For a *management company* or a *full-scope UK AIFM*, the arrangements, processes and mechanisms referred to in *SYSC 4.1.1 R* and *SYSC 4.1.1A R* must also take account of the *UCITS schemes* managed by the *management company* or the *AIFs* managed by the *full-scope UK AIFM*.  
[**Note:** article 12(1) second paragraph of the *UCITS Directive* and article 18(1) second paragraph of *AIFMD*]

### Resources for management companies and AIFMs

**SYSC 4.1.2C** **R** A *management company* and a *full-scope UK AIFM* must have, and employ effectively, the resources and procedures that are necessary for the proper performance of its business activities.  
[**Note:** articles 12(1)(a) and 14(1)(c) of the *UCITS Directive* and article 12(1)(c) of *AIFMD*]

**SYSC 4.1.2D** **R** A *full-scope UK AIFM* must use, at all times, adequate and appropriate human and technical resources that are necessary for the proper management of *AIFs*.  
[**Note:** article 18(1) first paragraph of *AIFMD*]

### Subordinate measures relating to provisions implementing article 12(1) of AIFMD

**SYSC 4.1.2E** **G** Articles 16 to 29 of the *AIFMD level 2 regulation* provide detailed rules supplementing the *UK* provisions which implemented article 12(1) of *AIFMD*, and articles 57 to 66 of the *AIFMD level 2 regulation* provide detailed rules supplementing the *UK* provisions which implemented articles 12 and 18 of *AIFMD*.

### Mechanisms and procedures for a firm

**SYSC 4.1.4** **R** A *firm* (with the exception of a *common platform firm* and a *sole trader* who does not employ any *person* who is required to be approved under *section 59* of the *Act* (Approval for particular arrangements)) must, taking into account the nature, scale and complexity of the business of the *firm*, and the nature and range of the financial services, *claims management services* and other activities undertaken in the course of that business:

- (1) (if it is a *management company*) establish, implement and maintain decision-making procedures and an organisational structure which clearly and in a documented manner specifies reporting lines and allocates functions and responsibilities;
- (2) establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the *firm*;
- (3) establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the *firm*; and
- (4) (if it is a *management company*) establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the *management*

*company* as well as effective information flows with any third party involved.

[Note: articles 4(1) final paragraph, 4(1)(a), 4(1)(c) and 4(1)(d) of the *UCITS implementing Directive*]

SYSC 4.1.4A

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A *firm* that is not a *common platform firm* or a *management company* should take into account the decision-making procedures and effective internal reporting *rules* (SYSC 4.1.4R (1),(3) and (4)) as if they were *guidance* (and as if "should" appeared in those *rules* instead of "must") as explained in SYSC 1 Annex 1 3.3 R(1).

SYSC 4.1.5

R

A *management company* must establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

[Note: article 4(2) of the *UCITS implementing Directive*]

### Operators of pensions dashboard services: security, integrity and confidentiality

SYSC 4.1.5A

R

A *firm* carrying on *regulated pensions dashboard activity* must establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of any personal or pensions information held by the *firm*, taking into account the nature of the information in question.

SYSC 4.1.5B

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A *firm* carrying on *regulated pensions dashboard activity* must keep appropriate records to demonstrate compliance with SYSC 4.1.5AR.

SYSC 4.1.5C

R

(1) If there is an incident which may compromise the security, integrity or confidentiality of any personal or pensions information held by the *firm*, the *firm* must immediately notify the *FCA* using the relevant form in Connect.

(2) A notification under (1) must contain:

(a) a description of the incident;

(b) the time of the incident (where known); and

(c) a description of the steps the *firm* is taking since being made aware of the incident (where applicable).

### Business continuity

SYSC 4.1.6

R

A *common platform firm* must take reasonable steps to ensure continuity and regularity in the performance of its *regulated activities*. To this end the *common platform firm* must employ appropriate and proportionate systems, resources and procedures.

[Note: article 16(4) of *MiFID*]

SYSC 4.1.7

R

A *CRR firm* and a *management company* must establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, that any losses are limited, the preservation of essential data and functions, and the maintenance of its *regulated activities*, or, in the case of a *management company*, its



*collective portfolio management* activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of those activities.

[Note: article 4(3) of the *UCITS implementing Directive* and article 85(2) of *CRD*]

SYSC 4.1.7A

G

Other *firms* should take account of the business continuity *rules* (SYSC 4.1.6 R and 4.1.7 R) as if they were *guidance* (and as if "should" appeared in those *rules* instead of "must") as explained in SYSC 1 Annex 1 3.3 R(1).

SYSC 4.1.8

G

The matters dealt with in a business continuity policy should include:

- (1) resource requirements such as people, systems and other assets, and arrangements for obtaining these resources;
- (2) the recovery priorities for the *firm's* operations;
- (3) communication arrangements for internal and external concerned parties (including the *FCA*, *clients* and the press);
- (4) escalation and invocation plans that outline the processes for implementing the business continuity plans, together with relevant contact information;
- (5) processes to validate the integrity of information affected by the disruption; and
- (6) regular testing of the business continuity policy in an appropriate and proportionate manner in accordance with SYSC 4.1.10R and for a *common platform firm* with SYSC 4.1.1-AR(5) and SYSC 5.1.14R.

### Operators of electronic systems in relation to lending: arrangements to administer loans in the event of platform failure

SYSC 4.1.8A

R

- (1) An *operator of an electronic system in relation to lending* must have arrangements in place to ensure that *P2P agreements* facilitated by it will have a reasonable likelihood of being managed and administered, in accordance with the contract terms between the *firm* and its relevant borrower and lender customers, if at any time it ceases to manage and administer those *P2P agreements*.
- (2) Under (1), and wherever the requirement in (1) is referenced in the *FCA's rules* and *guidance*, the reference to *P2P agreements* includes any *non-P2P agreement* included in a *P2P portfolio*.
- (3) The arrangements under (1) must not be designed to prefer any particular customers or class of customers for whom it manages and administers *P2P agreements* or *non-P2P agreements*.

SYSC 4.1.8C

G

Arrangements that are required to be put in place under SYSC 4.1.8AR may include any one or more of the following:

- (1) entering into an arrangement with another *firm* that has the appropriate *permissions*

to take over the management and administration of *P2P agreements* if the operator ceases to *operate the electronic system in relation to lending* and, where appropriate:

- (a) obtaining prior and informed consent from *lender clients* to fund the continued cost of management and administration of their respective loans, for example through increased commissions; and/or
- (b) obtaining prior and informed consent from *lender clients* and *borrower clients* for the transfer of the service of managing and administration of *P2P agreements* from the *firm* to that other *firm*; or
- (2) holding sufficient collateral to cover the cost of management and administration while the loan book is wound down, ensuring that the collateral is held through a structure that is ring-fenced in the event of the *firm's* insolvency; or
- (3) [deleted]
- (4) managing the loan book in a way that ensures that income from *P2P agreements* facilitated by the *firm* is sufficient to cover the costs of managing and administering those agreements during the winding down process, taking into account the reduction of the loan pool and fee income from it.

SYSC 4.1.8D

G

- (1) When designing its arrangements, a *firm* should take into account the general law to ensure that the insolvency of the *firm* does not prejudice the operation of arrangements that the *firm* has put in place.
- (2) A *firm* should consider the need to obtain professional advice on the adequacy of its arrangements. For example, a *firm* may benefit from obtaining legal advice or advice from a qualified insolvency practitioner on the likelihood of its arrangements securing the required outcome for continuity of management and administration of *P2P agreements*.
- (3) In assessing the adequacy of its arrangements, a *firm* should consider, in particular:
  - (a) whether any terms included in relevant contracts as part of its arrangements are enforceable, for example terms in customer, service and supplier contracts;
  - (b) the extent to which other practical obstacles could foreseeably prevent the implementation of the arrangements or frustrate the required outcome, including whether the *firm* will be likely to have sufficient financial resources to fund the implementation of the arrangements at the relevant time;
  - (c) whether the arrangements make adequate provision for any activities that are ancillary to the management and administration of *P2P agreements* upon which the required outcome is, or could be, dependent;
  - (d) whether, having regard to SYSC 4.1.8AR(3), its arrangements are designed so as not to produce a better outcome for its customers who are party to *non-P2P agreements* than for customers who are party to *P2P agreements*;
  - (e) whether its arrangements take into account any relevant security arrangements in relation to loans; and
  - (f) whether its arrangements take into account any relevant tax arrangements for *lender clients*.
- (4) *Firms* are reminded of the disclosure requirements in COBS 18.12.28R (Information

concerning platform failure).

(5) *Firms* may find it useful to refer to the *FCA's* Wind-down Planning Guide (*WDPG*) when designing their arrangements.

#### SYSC 4.1.8DA

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In line with Principle 11 and *SUP 15.3.8G* (Communication with the appropriate regulator in accordance with Principle 11), a firm should notify the *FCA* in writing if it is contemplating:

- (1) ceasing to manage and administer *P2P agreements* facilitated by it;
- (2) implementing its arrangements under *SYSC 4.1.8AR*; or
- (3) implementing any other arrangements that have a similar purpose.

#### SYSC 4.1.8DB

R

An *operator of an electronic system in relation to lending* must produce and keep up to date a *P2P resolution manual* which contains information about the *firm* that, in the event of the *firm's* insolvency, would assist in resolving the *firm's* business of management and administration of *P2P agreements* that it has facilitated. For these purposes, the reference to *P2P agreements* includes any *non-P2P agreement* included in a *P2P portfolio*. It must, as a minimum, include a written explanation of each of the following:

- (1) how the *firm* conducts the business of management and administration of *P2P agreements* that it has facilitated, what the day-to-day operation of that business entails and what resources would be needed to continue that business if the *firm* ceased to carry it on, including a specification of:
  - (a) critical staff and their respective roles;
  - (b) critical premises;
  - (c) the *firm's* IT systems, including details of data storage and data recovery arrangements;
  - (d) the *firm's* record-keeping systems, including how records are organised;
  - (e) all relevant bank accounts and payment facilities;
  - (f) all relevant *persons* outside of the *firm*, and their respective roles, including any outsourced service providers;
  - (g) all relevant legal documentation, including customer, service and supplier contracts;
  - (h) the *firm's group*, using a structure chart showing:
    - (i) the legal entities in the *group*;
    - (ii) the ownership structure of those entities; and
    - (iii) the jurisdiction of those entities; and
  - (i) how the *firm* holds and manages any security for loans;
- (2) the steps that would need to be implemented under the arrangements in place under *SYSC 4.1.8AR* in order for *P2P agreements* facilitated by the *firm* to continue to be managed and administered;
- (3) any terms in contracts that may need to be relied on to ensure *P2P agreements* facilitated by it will continue to be managed and administered under those arrangements; and

(4) how the *firm's* systems can produce the detail specified in *COBS 18.12.31R* (Ongoing disclosures) for each *P2P agreement* facilitated by it.

SYSC 4.1.8DC

R

An *operator of an electronic system in relation to lending* must put in place arrangements to ensure that its *P2P resolution manual* would be immediately available to:

- (1) an administrator, receiver, trustee, liquidator or analogous officer appointed in respect of it or any material part of its property; and
- (2) the *FCA*, on request.

SYSC 4.1.8DD

R

A *operator of an electronic system in relation to lending* must store its *P2P resolution manual* in the same place as its *CASS resolution pack*, if *CASS 10* (CASS resolution pack) applies to it.

### Operators of electronic systems in relation to lending: title transfer

SYSC 4.1.8E

R

- (1) An *operator of an electronic system in relation to lending* must not accept, take, or receive the transfer of full ownership of *money* relating to *P2P agreements*.
- (2) If an *operator of an electronic system in relation to lending* has made a *client money* election under *CASS 7.10.7AR*, when it is *operating an electronic system in relation to non-P2P agreements* it must also not accept, take, or receive the transfer of full ownership of *money* relating to *non-P2P agreements*.

### Accounting policies: management company

SYSC 4.1.9

R

A *management company* must establish, implement and maintain accounting policies and procedures that enable it, at the request of the *FCA*, to deliver in a timely manner to the *FCA* financial reports which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules.

[Note: article 4(4) of the *UCITS implementing Directive*]

### Regular monitoring: management company

SYSC 4.1.10

R

A *management company* must monitor and, on a regular basis, evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements established in accordance with *SYSC 4.1.4 R* to *SYSC 4.1.9 R* and take appropriate measures to address any deficiencies.

[Note: article 4(5) of the *UCITS implementing Directive*]

### Regular monitoring: other firms

SYSC 4.1.10A

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Other *firms* should take account of the regular monitoring *rule* (*SYSC 4.1.10 R*) as if it were *guidance* (and as if "should" appeared in that *rule* instead of "must") as explained in *SYSC 1 Annex 1 3.3 R(1)*, but ignoring the cross-reference to *SYSC 4.1.5 R* and *SYSC 4.1.9R*.

### Audit committee

SYSC 4.1.11

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Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to form an audit committee. An audit committee could typically examine management's process

for ensuring the appropriateness and effectiveness of systems and controls, examine the arrangements made by management to ensure compliance with requirements and standards under the *regulatory system*, oversee the functioning of the internal audit function (if applicable) and provide an interface between management and external auditors. It should have an appropriate number of *non-executive directors* and it should have formal terms of reference.

### Risk control: additional guidance

SYSC 4.1.13

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*Firms* should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in SYSC 21.

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

SYSC 4.1.14

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The role undertaken by a *non-executive director* will vary from one *firm* to another.

### Investment strategy and investment decision making of an operator of a personal pension scheme or stakeholder pension scheme

SYSC 4.1.15

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- (1) This *guidance* sets out the *FCA's* expectation on how an operator of a *personal pension scheme* or a *stakeholder pension scheme* may take into account *ESG financial considerations* and *other financial considerations* and *non-financial matters* as part of its *investment* strategy or *investment* decision making, to demonstrate compliance with *Principles* 2, 3, 6 or 8.
- (2) This *guidance* only applies where the *personal pension scheme* or *stakeholder pension scheme* operator's *investment* strategy or *investment* decision could have a material impact on a *client* or a *relevant policyholder's investment* returns and relates to a product where:
  - (a) the primary purpose of the product is to provide an *investment* return; and
  - (b) the *investment* risk is borne by a *client* who is a natural person or a *relevant policyholder*.
- (3) As part of its *investment* strategy or *investment* decision making, an operator of a *personal pension scheme* or a *stakeholder pension scheme* should take into account *ESG financial considerations* and *other financial considerations*, over the period of time that the *firm* reasonably considers is needed to achieve the objective of the *investment* or the *investment* strategy.
- (4) References to *other financial considerations* in (3) may include (but are not limited to) interest rates, liquidity, concentration, exchange rate, political and counterparty risks.
- (5) As part of its *investment* strategy or *investment* decision making in relation to a product, an operator of a *personal pension scheme* or a *stakeholder pension scheme* may take into account *non-financial matters* if:
  - (a) the *firm* has good reason to consider that affected *clients* or *relevant policyholders* would generally share the views on which the *non-financial matters* are based; and
  - (b) taking those matters into account would not involve a risk of a significant financial detriment to an affected *investment*.
- (6) (5) does not apply to a *firm's investment* strategy or *investment* decision making in

relation to a product (other than in relation to a *relevant scheme* or a *pathway investment*) that has been deliberately designed by the *firm* to take into account *non-financial matters*, and *clients* or *relevant policyholders* make an active decision to select that product.

## Section : SYSC 4.2 Persons who effectively direct the business

### General requirement

**SYSC 4.2.1** **R** The *senior personnel* of a *common platform firm*, a *management company*, a *full-scope UK AIFM*, or of the *UK* branch of a *non-UK bank* must be of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management of the *firm*.  
[Note: article 9(1)(4) of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD* and article 91(1) of *CRD*]

**SYSC 4.2.1A** **G** Other *firms* should take account of the senior personnel *rule* (**SYSC 4.2.1 R**) as if it were *guidance* (and as if "should" appeared in that *rule* instead of "must") as explained in **SYSC 1 Annex 1** 3.3 R(1).

### Responsibility of senior personnel of an AIFM

**SYSC 4.2.1B** **R** For a *full-scope UK AIFM*, the *senior personnel* must, in complying with **SYSC 4.2.1 R**, be sufficiently experienced in relation to the investment strategies pursued by the *AIFs* it manages.  
[Note: article 8(1)(c) of *AIFMD*]

### Composition of management

**SYSC 4.2.2** **R** A *common platform firm*, a *management company*, a *full-scope UK AIFM* and the *UK* branch of a *non-UK bank* must ensure that its management is undertaken by at least two persons meeting the requirements laid down in **SYSC 4.2.1 R** and :  
(a) for a *full-scope UK AIFM*, **SYSC 4.2.7R**; or  
(b) for a *common platform firm*, **SYSC 4.3A.3R**.

[Note: article 9(6) first paragraph of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD* and article 13(1) of *CRD*]

**SYSC 4.2.3** **G** In the case of a *body corporate*, the persons referred to in **SYSC 4.2.2 R** should either be executive *directors* or persons granted executive powers by, and reporting immediately to, the *governing body*. In the case of a *partnership*, they should be active *partners*.

**SYSC 4.2.4** **G** At least two independent minds should be applied to the formulation and implementation of the policies of a *common platform firm*, a *management company*, a *full-scope UK AIFM* and the *UK* branch of a *third country firm*. Where a *firm* nominates just two individuals to direct its business, the *FCA* will not regard them as both effectively directing the business where one of them makes some, albeit significant, decisions relating to only a few aspects of the business. Each should play a part in the decision-making process on all significant decisions. Both should demonstrate the qualities and application to influence strategy, day-to-day policy and its implementation. This does not require their day-to-day involvement in the execution and implementation of policy. It does, however, require involvement in strategy and general direction, as well as knowledge of, and influence on, the way in which strategy is being implemented through day-to-day policy.



## SYSC 4.2.5

**G** Where there are more than two individuals directing the business of a *common platform firm*, a *management company*, a *full-scope UK AIFM* or the *UK* branch of a *third country firm*, the *FCA* does not regard it as necessary for all of these individuals to be involved in all decisions relating to the determination of strategy and general direction. However, at least two individuals should be involved in all such decisions. Both individuals' judgement should be engaged so that major errors leading to difficulties for the *firm* are less likely to occur. Similarly, each individual should have sufficient experience and knowledge of the business and the necessary personal qualities and skills to detect and resist any imprudence, dishonesty or other irregularities by the other individual. Where a single individual, whether a chief executive, managing *director* or otherwise, is particularly dominant in such a *firm* this will raise doubts about whether SYSC 4.2.2 R is met.

### Alternative arrangements

## SYSC 4.2.6

**R** If a *common platform firm*, (other than a *credit institution* or *AIFM investment firm*) or the *UK* branch of a *third country firm*, is:

- (1) a natural person; or
- (2) a legal person managed by a single natural person;

then:

- (3) it must have alternative arrangements in place which ensure:
  - (a) sound and prudent management of the *firm*; and
  - (b) adequate consideration of the interests of *clients* and the integrity of the market; and
- (4) the natural persons concerned must be of sufficiently good reputation, possess sufficient knowledge, skills and experience and commit sufficient time to perform their duties.

it must have alternative arrangements in place which ensure sound and prudent management of the *firm*.

[Note: article 9(6) second paragraph of *MiFID*]

## SYSC 4.2.7

**R** A *full-scope UK AIFM* must notify the *FCA* of the names of the *senior personnel* of the *firm* and of every person succeeding them in office.

[Note: article 8(1)(c) of *AIFMD*]

## SYSC 4.2.8

**G** Where the *senior personnel* of a *full-scope UK AIFM* will carry out a *FCA governing function* and the *firm* has applied for the *FCA's* approval under *section 59* of the *Act*, this will be considered sufficient to comply with SYSC 4.2.7 R.



## Section : SYSC 4.3 Responsibility of senior personnel

SYSC 4.3.1

R

A *firm* (with the exception of a *common platform firm* and a *sole trader* who does not employ any *person* who is required to be approved under *section 59* of the *Act* (Approval for particular arrangements)), when allocating functions internally, must ensure that *senior personnel* and, where appropriate, the *supervisory function*, are responsible for ensuring that the *firm* complies with its obligations under the *regulatory system*. In particular, *senior personnel* and, where appropriate, the *supervisory function* must assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the *firm's* obligations under the *regulatory system* and take appropriate measures to address any deficiencies. [Note: articles 9(1) and 9(3) of the *UCITS implementing Directive*]

SYSC 4.3.2

R

A *firm* that is a *management company* or an *operator of an electronic system in relation to lending* must ensure that:

- (1) its *senior personnel* receive on a frequent basis, and at least annually, written reports on the matters covered by *SYSC 6.1.2 R* to *6.1.5 R*, *SYSC 6.2.1 R*, *SYSC 7.1.2 R*, *SYSC 7.1.3 R* and *SYSC 7.1.5 R* to *7.1.7 R*, indicating in particular whether the appropriate remedial measures have been taken in the event of any deficiencies; and
- (2) the *supervisory function*, if any, receives on a regular basis written reports on the same matters. [Note: articles 9(4) and 9(6) of the *UCITS implementing Directive*]

SYSC 4.3.2-A

R

- (1) A *common platform firm*, when allocating functions internally, must ensure that *senior management* and, where appropriate, the *supervisory function*, are responsible for ensuring that the *firm* complies with its obligations under the *UK law on markets in financial instruments*. In particular, *senior management* and, where appropriate, the *supervisory function* must assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the *firm's* obligations under the *UK law on markets in financial instruments*, and take appropriate measures to address any deficiencies.
- (2) When allocating significant functions among *senior management* under *SYSC 4.3.2-AR(1)*, a *common platform firm* must:
  - (a) establish who is responsible for overseeing and maintaining the *firm's* organisational requirements; and
  - (b) keep up-to-date records of such allocation.
- (3) A *common platform firm* must ensure that:
  - (a) its *senior management* receive on a frequent basis, and at least annually, written reports on the matters covered by *SYSC 6.1.2-AR*, *SYSC 6.1.3-AR*, *SYSC 6.1.3-BR*, *SYSC 6.1.3-CR*, *SYSC 6.1.5R*, *SYSC 6.2.1R*, *SYSC 7.1.2-AR*, *SYSC 7.1.3R* and *SYSC 7.1.5R* to *SYSC 7.1.7R*, indicating in particular whether the appropriate remedial measures have been taken in the event of any deficiencies; and
  - (b) the *supervisory function*, if any, receives on a regular basis written reports on

the same matters.

SYSC 4.3.2A

G

Other *firms* should take account of the written reports *rule* (SYSC 4.3.2 R) as if it were *guidance* (and as if "should" appeared in that *rule* instead of "must") as explained in SYSC 1 Annex 1 3.3 R(1).

SYSC 4.3.3

G

The *supervisory function* does not include a general meeting of the shareholders of a *firm*, or equivalent bodies, but could involve, for example, a separate supervisory board within a two-tier board structure or the establishment of a non-executive committee of a single-tier board structure.

## Section : SYSC 4.3A Management body and nomination committee

### Management body

SYSC 4.3A.1

R

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

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

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

SYSC 4.3A.1A

R

Without prejudice to *SYSC 4.3A.1R*, a *common platform firm* must ensure that the *management body* defines, approves and oversees:

- (1) the organisation of the *firm* for the provision of *investment services and/or activities* and *ancillary services*, including the skills, knowledge and expertise required by personnel, the resources, the procedures and the arrangements for the provision of services and activities, taking into account the nature, scale and complexity of its business and all the requirements the *firm* has to comply with;
- (2) a policy as to services, activities, products and operations offered or provided, in accordance with the risk tolerance of the *firm* and the characteristics and needs of the *firm's clients* to whom they will be offered or provided, including carrying out appropriate stress testing, where appropriate; and
- (3) a remuneration policy of persons involved in the provision of services to *clients* aiming to encourage responsible business conduct, fair treatment of *clients* as well as avoiding conflict of interest in the relationships with *clients*.

[Note: article 9(3) of *MiFID*]

SYSC 4.3A.2	R	<p>A <i>common platform firm</i> must ensure that the chairman of the <i>firm's management body</i> does not exercise simultaneously the <i>PRA's</i> Chief Executive function (<i>controlled function</i> SMF1) or <i>chief executive function</i> within the same <i>firm</i>.</p> <p>[Note: article 88(1)(e) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
SYSC 4.3A.2A	G	<p>A <i>firm</i> may apply to the <i>FCA</i> under <i>section 138A</i> of the <i>Act</i> to waive SYSC 4.3A.2R.</p>
SYSC 4.3A.3	R	<p>A <i>common platform firm</i> must ensure that the members of the <i>management body</i> of the <i>firm</i>:</p> <ul style="list-style-type: none"> <li>(1) are of sufficiently good repute;</li> <li>(2) possess sufficient knowledge, skills and experience to perform their duties;</li> <li>(3) possess adequate collective knowledge, skills and experience to understand the <i>firm's</i> activities, including the main risks;</li> <li>(4) reflect an adequately broad range of experiences;</li> <li>(5) commit sufficient time to perform their functions in the <i>firm</i>; and</li> <li>(6) act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of <i>senior management</i> where necessary and to effectively oversee and monitor management decision-making.</li> </ul> <p>[Note: article 91(1)-(2) and (7)-(8) of <i>CRD</i> and article 9(1) and 9(4) of <i>MiFID</i>]</p>
SYSC 4.3A.3A	G	<ul style="list-style-type: none"> <li>(1) A <i>firm</i> should have procedures for monitoring the collective adequacy of the knowledge, skills and experience of its <i>management body</i> as well as of its individual members.</li> <li>(2) A <i>firm</i> may wish to use the “Template for a matrix to assess the collective competence of members of the management body” in Annex I of the joint <i>ESMA</i> and <i>EBA</i> publication titled “Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU” when assessing collective competence.</li> </ul> <p>[Note: <a href="https://www.esma.europa.eu/document/joint-esma-and-eba-guidelines-assessment-suitability-members-management-body-and-key-0">https://www.esma.europa.eu/document/joint-esma-and-eba-guidelines-assessment-suitability-members-management-body-and-key-0</a>]</p>
SYSC 4.3A.4	R	<p>A <i>common platform firm</i> must devote adequate human and financial resources to the induction and training of members of the <i>management body</i>.</p> <p>[Note: article 91(9) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
SYSC 4.3A.5	R	<p>A <i>common platform firm</i> must ensure that the members of the <i>management body</i> of the <i>firm</i> do not hold more directorships than is appropriate taking into account individual circumstances and the nature, scale and complexity of the <i>firm's</i> activities.</p> <p>[Note: article 91(3) of <i>CRD</i> and article 9(1) of <i>MiFID</i>]</p>
SYSC 4.3A.6	R	<ul style="list-style-type: none"> <li>(1) A <i>common platform firm</i> that is a <i>significant SYSC firm</i> must ensure that the members of the <i>management body</i> of the <i>firm</i> do not hold more than one of the following combinations of directorship in any organisation at the same time:</li> </ul>

- (a) one executive directorship with two non-executive directorships; and
- (b) four non-executive directorships.

(2) Paragraph (1) does not apply to members of the *management body* that represent the *United Kingdom*.

[Note: article 91(3) of *CRD* and article 9(1) of *MiFID*]

SYSC 4.3A.7

R

For the purposes of *SYSC 4.3A.5 R* and *SYSC 4.3A.6 R*:

- (1) directorships in organisations which do not pursue predominantly commercial objectives shall not count; and
- (2) the following shall count as a single directorship:
  - (a) executive or non-executive directorships held within the same *group*; or
  - (b) executive or non-executive directorships held within:
    - (i) [deleted]
    - (ii) *undertakings* (including non-financial entities) in which the *firm* holds a *qualifying holding*.

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

## Nomination Committee

SYSC 4.3A.7A

R

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

SYSC 4.3A.7B

G

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

SYSC 4.3A.8

R

A *common platform firm* that is a *significant SYSC firm* must:

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

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

SYSC 4.3A.9

R

A *common platform firm* that has a nomination committee must ensure that the nomination committee:

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

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

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

SYSC 4.3A.10

R

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

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

## Website

SYSC 4.3A.11

R

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

[Note: article 96 of *CRD*]

## Section : SYSC 4.4 Apportionment of responsibilities

### Application

SYSC 4.4.1A

R

(-2) This section applies to:

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

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

(ii) a *limited scope SMCR benchmark firm*; and

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

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

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

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

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

(i) is also conducting other *regulated activities*; and

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

(2) [deleted]

(3) [deleted]

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

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

(a) have any *person* (other than themselves) who is required to be approved under *section 59* of the *Act* (Approval for particular arrangements); or

(b) are an *authorised approved person employer* (except where they are the only *approved person* concerned); or

(c) have any *certification employees*.

SYSC 4.4.2

G

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

### Maintaining a clear and appropriate apportionment

SYSC 4.4.3

R

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

(1) it is clear who has which of those responsibilities; and

(2) the business and affairs of the *firm* can be adequately monitored and controlled by the *directors*, relevant *senior managers* and *governing body* of the *firm*.

### Allocating functions of apportionment and oversight

SYSC 4.4.5

R

A *firm* must appropriately allocate to one or more individuals, in accordance with the following



table, the functions of:

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

1: Firm type	2: Allocation of both functions must be to the following individual, if any (see Note):	3: Allocation to one or more individuals selected from this column is compulsory if there is no allocation to an individual in column 2, but is otherwise optional and additional:
(1) A <i>firm</i> which is a <i>body corporate</i> and is a member of a <i>group</i> , other than a <i>firm</i> in row (2)	(1) the <i>firm's chief executive</i> (and all of them jointly, if more than one); or	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>
	(2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of: (a) the <i>group</i> ; or (b) a <i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall	
(2) An <i>EEA SMCR firm</i> (note: only the functions in <b>SYSC 4.4.5R (2)</b> must be allocated)	(not applicable)	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>
(3) Any other <i>firm</i>	the <i>firm's chief executive</i> (and all of them jointly, if more than one)	the <i>firm's</i> and its <i>group's</i> : (1) <i>directors</i> ; and (2) <i>senior managers</i>
Note: Column 2 does not require the involvement of the <i>chief executive</i> or other executive <i>director</i> or <i>senior manager</i> in an aspect of corporate governance if that would be contrary to generally accepted principles of good corporate governance.		

#### SYSC 4.4.6



Frequently asked questions about allocation of functions in **SYSC 4.4.5 R**

Question	Answer
1  Does an individual to whom a function is allocated under <b>SYSC 4.4.5 R</b> need to be an <i>approved person</i> ?	Yes. They will be performing the limited scope function. However, the <i>limited scope function</i> does not apply to an <i>EEA SMCR firm</i> (except



Question		Answer
		claims management and funeral plan <i>firms</i> ) or an <i>authorised professional firm</i> that is a <i>core SMCR firm</i> .
2	If the allocation is to more than one individual, can they perform the functions, or aspects of the functions, separately?	If the functions are allocated to joint <i>chief executives</i> under SYSC 4.4.5 R, column 2, they are expected to act jointly. If the functions are allocated to an individual under SYSC 4.4.5 R, column 2, in addition to individuals under SYSC 4.4.5 R, column 3, the former may normally be expected to perform a leading role in relation to the functions that reflects his position. Otherwise, yes.
3	What is meant by "appropriately allocate" in this context?	The allocation of functions should be compatible with delivering compliance with Principle 3, SYSC 4.4.3 R and SYSC 4.1.1 R. The FCA considers that allocation to one or two individuals is likely to be appropriate for most <i>firms</i> .
4	If a committee of management governs a <i>firm</i> or <i>group</i> , can the functions be allocated to every member of that committee?	Yes, as long as the allocation remains appropriate (see Question 3). If the <i>firm</i> also has an individual as <i>chief executive</i> , then the functions must be allocated to that individual as well under SYSC 4.4.5 R, column 2 (see Question 7).
5	Does the definition of <i>chief executive</i> include the possessor of equivalent responsibilities with another title, such as a managing	Yes.

Question		Answer
	<i>director</i> or managing <i>partner</i> ?	
6	Is it possible for a <i>firm</i> to have more than one individual as its <i>chief executive</i> ?	Although unusual, some <i>firms</i> may wish the responsibility of a <i>chief executive</i> to be held jointly by more than one individual. In that case, each of them will be a <i>chief executive</i> and the functions must be allocated to all of them under SYSC 4.4.5 R, column 2 (see also Questions 2 and 7).
7	If a <i>firm</i> has an individual as <i>chief executive</i> , must the functions be allocated to that individual?	<p>Normally, yes, under SYSC 4.4.5 R, column 2.</p> <p>But if the <i>firm</i> is a <i>body corporate</i> and a member of a <i>group</i>, the functions may, instead of being allocated to the <i>firm's chief executive</i>, be allocated to a <i>director</i> or <i>senior manager</i> from the <i>group</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division, so long as this is appropriate (see Question 3). Such individuals may nevertheless require approval under section 59 (see Question 1).</p> <p>If the <i>firm</i> chooses to allocate the functions to a <i>director</i> or <i>senior manager</i> responsible for the overall management of a relevant <i>group</i> division, the <i>FCA</i> would expect that individual to be of a seniority equivalent to or greater than a <i>chief executive</i> of the <i>firm</i> for the allocation to be appropriate.</p> <p>See also Question 14.</p>

Question		Answer
8	If a <i>firm</i> has a <i>chief executive</i> , can the functions be allocated to other individuals in addition to the <i>chief executive</i> ?	Yes. <i>SYSC 4.4.5 R</i> , column 3, permits a <i>firm</i> to allocate the functions, additionally, to the <i>firm's</i> (or where applicable the <i>group's</i> ) <i>directors</i> and <i>senior managers</i> as long as this is appropriate (see Question 3).
9	What if a <i>firm</i> does not have a <i>chief executive</i> ?	Normally, the functions must be allocated to one or more individuals selected from the <i>firm's</i> (or where applicable the <i>group's</i> ) <i>directors</i> and <i>senior managers</i> under <i>SYSC 4.4.5 R</i> , column 3. But if the <i>firm</i> : (1) is a <i>body corporate</i> and a member of a <i>group</i> ; and (2) the <i>group</i> has a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i> or of a relevant <i>group</i> division; then the functions must be allocated to that individual (together, optionally, with individuals from column 3 if appropriate) under <i>SYSC 4.4.5 R</i> , column 2.
10	What do you mean by " <i>group</i> division within which some or all of the <i>firm's regulated activities</i> fall"?	A "division" in this context should be interpreted by reference to geographical operations, product lines or any other method by which the <i>group's</i> business is divided. If the <i>firm's regulated activities</i> fall within more than one division and the <i>firm</i> does not wish to allocate the functions to its <i>chief executive</i> , the allocation

Question		Answer
		<p>must, under <i>SYSC 4.4.5 R</i>, be to:</p> <p>(1) a <i>director</i> or <i>senior manager</i> responsible for the overall management of the <i>group</i>; or (2) a <i>director</i> or <i>senior manager</i> responsible for the overall management of one of those divisions; together, optionally, with individuals from column 3 if appropriate. (See also Questions 7 and 9.)</p>
11	<p>How does the requirement to allocate the functions in <i>SYSC 4.4.5 R</i> apply to an <i>overseas SMCR firm</i> which is not an <i>EEA SMCR firm</i>?</p>	<p>The <i>firm</i> must appropriately allocate those functions to one or more individuals, in accordance with <i>SYSC 4.4.5 R</i>, but:</p> <p>(1) The responsibilities that must be apportioned and the systems and controls that must be overseen are those relating to activities carried on from a <i>UK</i> establishment with certain exceptions (see <i>SYSC 1 Annex 1 2.15R</i>).</p> <p>(2) The <i>chief executive</i> of an <i>overseas firm</i> is the <i>person</i> responsible for the conduct of the <i>firm's</i> business within the <i>United Kingdom</i> (see the definition of "<i>chief executive</i>"). This might, for example, be the manager of the <i>firm's UK</i> establishment, or it might be the <i>chief executive</i> of the <i>firm</i> as a whole, if he has that responsibility.</p> <p>(3) <i>SYSC 4.4</i> does not apply to such a <i>firm</i> if it does not have a <i>branch</i> in the <i>United</i></p>

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

Question		Answer
	the <i>chief executive</i> should not be involved in an aspect of corporate governance?	director or <i>senior manager</i> need not be involved in such circumstances. For example, the <i>UK Corporate Governance Code</i> recommends that the board of a listed company should establish an audit committee of independent, non-executive directors to be responsible (among other things) for overseeing the effectiveness of the audit process and the objectivity and independence of the external auditor. That aspect of the oversight function may therefore be allocated to the members of such a committee without involving the <i>chief executive</i> . Such individuals may require approval under section 59 in relation to that function (see Question 1).
15	[deleted]	

## Section : SYSC 4.7

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SYSC 4.7.26

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[deleted [*Editor's note*: The text of this provision has been moved to [SYSC 24.3.9G](#)]

## Section : SYSC 4 Annex 1

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SYSC 4 Annex 1

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[*Editor's note:* The text of this provision has been moved to *SYSC 25 Annex 1G*]