

Chapter 1

Application and purpose

1.1 Application

1.1.1 **G** Under section 64A of the *Act*, the *FCA* may make *rules* about the conduct of certain *persons* working in *firms*.

To whom does it apply?

1.1.1A **R** *COCON* applies to the *persons* set out in the table in **COCON 1.1.2R**.

1.1.2 **R** Table: To whom does COCON apply?

Persons to whom COCON applies	Comments
(1) An <i>SMF manager</i> .	
(2) An <i>employee</i> ("P") of an <i>SMCR firm</i> who:	
(a) performs the function of an <i>SMF manager</i> ;	
(b) is not an <i>approved person</i> to perform the function in question; and	
(c) is required to be an <i>approved person</i> at the time P performs that function.	
(3) An <i>employee</i> of an <i>SMCR firm</i> who would be performing an <i>FCA-designated senior management function</i> but for SUP 10C.3.13R (The 12-week rule).	
(4) A <i>certification employee</i> of an <i>SMCR firm</i> .	This applies even if the <i>certification employee</i> has not been notified that COCON applies to them or notified of the <i>rules</i> that apply to them.
(5) An <i>employee</i> of an <i>SMCR firm</i> who would be performing an <i>FCA certification function</i> but for SYSC 27.5.1R (Emergency appointments) or SYSC 27.5.3R (Temporary UK role).	
(6) Any <i>employee</i> of an <i>SMCR firm</i> not coming within another row of this table, except one listed in column (2) of this row (6) of this table.	(A) This row (6) does not apply to an <i>employee</i> of an <i>SMCR firm</i> who only performs functions falling within the scope of the following roles: (a) receptionists; (b) switchboard operators;

Persons to whom COCON applies	Comments
	(c)post room staff; (d)reprographics/print room staff; (e)property/facilities management; (f)events management; (g)security guards; (h)invoice processing; (i)audio visual technicians; (j)vending machine staff; (k)medical staff; (l)archive records management; (m)drivers; (n)corporate social responsibility staff; (o) taking part in following activities of the <i>firm</i> : (i) the <i>firm's</i> activities as a data controller; or (ii) the <i>firm's</i> activities of data processing; as defined in the <i>data protection legislation</i> , but subject to Note (1) of this table; <i>data protection legislation</i> ; (p)cleaners; (q)catering staff; (r)personal assistant or secretary; (s)information technology support (ie, helpdesk); and (t)human resources administrators / processors.
(7) [deleted]	
(8)A <i>board director</i> of: a <i>UK SMCR firm</i> .	
Note (1): A function is only within paragraph (o) of column (2) (Comments) of row (6) of this table if the function does not require the <i>employee</i> concerned to exercise a significant amount of discretion or judgment.	

1.1.2A **R** For *Swiss general insurers*, references in this sourcebook to parts of the *PRA Rulebook* for 'Solvency II firms' are to be read as references to the corresponding parts of the *PRA Rulebook* applying to *large non-directive insurers*.

1.1.3 **R** Rules 1 to 6 in ■ **COCON 2.1** apply to all *conduct rules staff*.

1.1.4	R	<p>(1) <i>Rules SC1 to SC4 in ■ COCON 2.2 apply to all senior conduct rules staff members (subject to (2)).</i></p> <p>(2) <i>SC1 to SC3 in ■ COCON 2.2 do not apply to a senior conduct rules staff member within paragraph (d) of the definition of senior conduct rules staff member (P) unless P also falls into paragraph (a) or (b) of that definition.</i></p>
1.1.5	G	<p>(1) <i>The guidance in ■ COCON 2.3 applies to SMCR firms.</i></p> <p>(2) <i>[deleted]</i></p> <p>(3) <i>■ SYSC 27.6.3R provides that a function performed by a non-executive director of a firm acting as such is not an FCA certification function for that firm.</i></p>
1.1.5A	R	<p>The conduct of a member of the <i>conduct rules staff</i> of a <i>firm</i> is not within the scope of <i>Rule 6</i> in ■ COCON 2.1 (You must act to deliver good outcomes for retail customers):</p> <p>(1) <i>unless the corresponding COCON firm activities of the firm are within the scope of ■ PRIN 3.1 (Who?) so far as it applies to Principle 12; and</i></p> <p>(2) <i>except to the extent that Principle 12 applies to that firm under ■ PRIN 3.1.</i></p>
To what conduct does it apply?		
1.1.5B	R	<p>(1) <i>The restrictions of the scope of COCON in ■ COCON 1.1.7AR to ■ COCON 1.1.7ER (when they apply) are in addition to those in ■ COCON 1.1.6R to ■ COCON 1.1.7R.</i></p> <p>(2) <i>The restrictions of the scope of COCON in ■ COCON 1.1.7AR to ■ COCON 1.1.7ER (when they apply) are cumulative.</i></p>
1.1.5C	G	<p>(1) <i>The effect of ■ COCON 1.1.5BR(1) is that conduct that is within the scope of ■ COCON 1.1.7AR to ■ COCON 1.1.7ER but outside the scope of ■ COCON 1.1.6R to ■ COCON 1.1.7R is outside the scope of COCON and vice versa.</i></p> <p>(2) <i>The effect of ■ COCON 1.1.5BR(2) is that conduct of a member of the conduct rules staff of a firm:</i></p> <p>(a) <i>is outside the scope of COCON even if it is excluded by only one of the rules in ■ COCON 1.1.7AR to ■ COCON 1.1.7ER; and</i></p> <p>(b) <i>is outside the scope of:</i></p> <p>(i) <i>Rule 4 in ■ COCON 2.1 (You must pay due regard to the interests of customers and treat them fairly) even if the only rule excluding it is ■ COCON 1.1.7ER; and</i></p> <p>(ii) <i>Rule 6 in ■ COCON 2.1 (You must act to deliver good outcomes for retail customers) even if the only rule excluding it is ■ COCON 1.1.7CR.</i></p>

- 1.1.6** **R** For a *person* (P) who is an *approved person*, COCON applies to the conduct of P in relation to the performance by P of functions relating to the carrying on of activities (whether or not *regulated activities*) by the *firm* (Firm A) on whose application approval was given to P.
- [Note: sections 64A(4) and (5)(a) of the Act (Rules of conduct)]
- 1.1.6A** **R** For a *person* (P) who is a *board director* of a *firm* (Firm A) but is not an *approved person* of Firm A, COCON applies to the conduct of P in relation to the performance by P of functions relating to the carrying on of activities (whether or not *regulated activities*) by Firm A.
- [Note: sections 64A(4) and (5)(ab) of the Act (Rules of conduct)]
- 1.1.7** **R**
- (1) For a *person* (P) subject to COCON who is not an *approved person*, COCON applies to the conduct of P in relation to the performance by P of functions relating to the carrying on of activities (whether or not *regulated activities*) by P's *employer* (Firm A).
 - (2) This *rule* does not apply where ■ COCON 1.1.6A applies.
- [Note: sections 64A(4) and (5)(b) of the Act (Rules of conduct)]
- 1.1.7-A** **R**
- (1) The term "*COCON firm activities*" means (in relation to conduct of P in relation to Firm A) the corresponding activities of Firm A as referred to in ■ COCON 1.1.6R to ■ COCON 1.1.7R (To what conduct does it apply?).
 - (2) A *person* is a member of the *conduct rules staff* of Firm A if they meet the description of P in relation to that *firm* in ■ COCON 1.1.6R to ■ COCON 1.1.7R.
 - (3) The terms "P" and "Firm A" have the same meaning as they do in ■ COCON 1.1.6R to ■ COCON 1.1.7R.
- 1.1.7A** **R**
- (1) Where Firm A in ■ COCON 1.1.6R to ■ COCON 1.1.7R is an *SMCR firm* other than an *SMCR banking firm*, the application of COCON is further restricted by this *rule*.
 - (2) COCON only applies to conduct that forms part of, or is for the purpose of, any of the following:
 - (a) the *SMCR financial activities* of Firm A; or
 - (b) any activities of Firm A that have, or might reasonably be regarded as likely to have, a negative effect on:
 - (i) the integrity of the *UK financial system*; or
 - (ii) the ability of Firm A to meet the "fit and proper" test in threshold condition 2E and 3D (Suitability); or
 - (iii) the ability of Firm A to meet the applicable requirements and standards under the *regulatory system* relating to Firm A's financial resources.
 - (3) This *rule* does not apply where ■ COCON 1.1.7BR applies.

1.1.7B

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- (4) This *rule* does not apply to *Rule 6* in ■ COCON 2.1 (You must act to deliver good outcomes for retail customers).
- (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*.

1.1.7C

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The conduct of a member of the *conduct rules staff* of a *firm* is not within the scope of *Rule 6* in ■ COCON 2.1 (You must act to deliver good outcomes for retail customers) unless the corresponding COCON *firm activities* of the *firm* are within the scope of ■ PRIN 3.2 (What?) so far as it applies to *Principle 12*.

1.1.7D

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The effect of ■ COCON 1.1.7C is that a *person's* conduct is not within the scope of *Rule 6* in ■ COCON 2.1 if the related activities of the *firm* fall outside the scope of *Principle 12*. If *Principle 12* applies, *Rule 6* in ■ COCON 2.1 only applies if the conduct is also within the scope of the other relevant COCON application *rules* (although one of the COCON application rules (■ COCON 1.1.7AR) does not apply to *Rule 6*).

1.1.7E	R	To the extent that <i>Rule 6</i> in ■ COCON 2.1 (You must act to deliver good outcomes for retail customers) applies to the conduct of a <i>person</i> , <i>Rule 4</i> in ■ COCON 2.1 (You must pay due regard to the interests of customers and treat them fairly) does not apply to that conduct of that <i>person</i> .
1.1.8	G	<p>(1) More than one of ■ COCON 1.1.6R to ■ COCON 1.1.7ER may apply to the same individual performing several roles.</p> <p>(2) For example, say that an individual (A) is an <i>approved person</i> for <i>firm X</i> and is employed by <i>firm Y</i> in a role that does not involve a <i>controlled function</i> or being a director.</p> <p>(3) ■ COCON 1.1.6R applies to A's role with <i>firm X</i> and ■ COCON 1.1.7R applies to A's role with <i>firm Y</i>.</p>
1.1.8A	R	<p>(1) This <i>rule</i> applies to a <i>person</i> (P):</p> <ul style="list-style-type: none"> (a) who is an <i>approved person</i> approved to perform a <i>controlled function</i> under ■ SUP 10A (FCA Approved Persons in Appointed Representatives); (b) for whom P's <i>authorised approved person employer</i> is an <i>SMCR firm</i> (F); and (c) to whom <i>COCON</i> also applies in P's capacity as a member of F's <i>conduct rules staff</i>. <p>(2) <i>COCON</i> does not apply to conduct of P to the extent that:</p> <ul style="list-style-type: none"> (a) that conduct relates to the performance by P of functions: <ul style="list-style-type: none"> (i) in (1)(a); or (ii) in relation to the carrying on of a <i>regulated activity</i> by the <i>appointed representative</i> concerned; and (b) <i>APER</i> applies to that conduct.
		Where does it apply?
1.1.8B	R	The restrictions of the scope of <i>COCON</i> in ■ COCON 1.1.9R to ■ COCON 1.1.10R on the one hand and ■ COCON 1.1.11C on the other are cumulative.
1.1.9	R	<p>(1) <i>COCON</i> applies to the conduct of <i>conduct rules staff</i> set out in (2) wherever it is performed.</p> <p>(2) This <i>rule</i> applies to:</p> <ul style="list-style-type: none"> (a) a <i>senior conduct rules staff member</i>; and (b) a <i>certification employee</i> performing <i>FCA certification function</i> (6) (material risk takers) in the table in ■ SYSC 27.7.3R for a <i>UK SMCR firm</i>.
1.1.9A	G	(1) This paragraph deals with how ■ COCON 1.1.9R applies to a <i>certification employee</i> (P) who performs the material risk taker <i>FCA certification function</i> and another <i>FCA certification function</i> for the same <i>UK SMCR firm</i> .

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| 1.1.10 | R | <p>(2) If P's conduct relates to both <i>FCA certification functions</i> (because for example those two functions cover the same activities) <i>COCON</i> applies without territorial limitation to P's conduct.</p> <p>(3) If part of P's conduct relates to the material risk taker <i>FCA certification function</i> and the rest of P's conduct relates to the other <i>FCA certification function</i>, <i>COCON</i> only applies without territorial limitation to P's conduct in relation to the material risk taker <i>FCA certification function</i>.</p> |
| 1.1.11 | G | <p>The <i>FCA</i> interprets the phrase 'dealing with' in COCON 1.1.10R as including having contact with <i>customers</i> and extending beyond 'dealing' as used in the phrase 'dealing in investments'. 'Dealing in' is used in Schedule 2 to the Act to describe, in general terms, the <i>regulated activities</i> which are specified in Part II of the <i>Regulated Activities Order</i>.</p> |
| 1.1.11A | G | <p>The <i>FCA</i> interprets the phrase 'a <i>client</i> of the <i>firm</i> in the <i>United Kingdom</i>' in COCON 1.1.10R as referring to:</p> <p>(1) for a <i>client</i> which is a body corporate, its office or <i>branch</i> in the <i>United Kingdom</i>; or</p> <p>(2) for a <i>client</i> who is an individual, a <i>client</i> who is in the <i>United Kingdom</i> at the time of the dealing.</p> |
| 1.1.11B | G | <p>(1) The <i>Regulated Activities Order</i> has an effect on the territorial scope of <i>COCON</i>.</p> <p>(2) This is because whether or not conduct involves <i>regulated activities</i> may affect how and whether <i>COCON</i> applies. Therefore where overseas activities are excluded from being <i>regulated activities</i> by the <i>Regulated Activities Order</i>, that will have an effect on <i>COCON</i>.</p> <p>(3) An example of (1) is the territorial restriction relating to <i>regulated claims management activities</i>.</p> <p>(4) As explained in PERG 2.4A (Link between regulated claims management activities and Great Britain), a claims management activity specified in the <i>Regulated Activities Order</i> is only a <i>regulated activity</i> if it is carried on by way of business in <i>Great Britain</i>.</p> |

(5) The result is that a claims management activity specified in the *Regulated Activities Order* carried on outside *Great Britain* is an *unregulated activity* for the purposes of *COCON*.

(6) This restriction:

- (a) applies to *conduct rules staff* coming within ■ [COCON 1.1.9R](#) as well as to other *conduct rules staff*; and
- (b) applies in addition to the restriction in ■ [COCON 1.1.10R](#).

1.1.11C R The conduct of a member of the *conduct rules staff* of a *firm* is not within the scope of *Rule 6* in ■ [COCON 2.1](#) (You must act to deliver good outcomes for retail customers) unless the corresponding *COCON firm activities* of the *firm* are within the scope of ■ [PRIN 3.3](#) (Where?) so far as it applies to *Principle 12*.

1.1.11D G The effect of ■ [COCON 1.1.8BR](#) and ■ [COCON 1.1.11CR](#) is that conduct of a member of a *firm's conduct rules staff* is only within the territorial scope of *Rule 6* in ■ [COCON 2.1](#) if it is within the scope of ■ [COCON 1.1.9R](#) to ■ [COCON 1.1.10R](#) and the corresponding activity of their *firm* is within the territorial scope of *Principle 12* as set out in ■ [PRIN 3.3](#).

1.1.12 R A *person* will not be subject to *COCON* to the extent that this would be contrary to the requirements of an *EU* measure passed or made before *IP completion day*, to the extent that those requirements continue to have effect after *IP completion day* under the *EUWA*.

Purpose

1.1.13 G The purpose of this chapter is to set out *rules for conduct rules staff* and to provide *guidance* about those *rules* to *firms* whose staff are subject to them.

1.1.14 G ■ [COCON 1 Annex 1](#) has *guidance* on the role and responsibilities of *non-executive directors* to whom *COCON* applies.