

Date: 30 April 2020

**Handbook Version as in force at the date of this Direction**

**Power**

1. This direction is given by the *FCA* under section 138A of the *Act*.

**Duration**

2.
  - (1) This direction takes effect on the date a firm applies.
  - (2) This direction ends on 30 April 2021.

**Rule modified**

3. The *FCA* directs that the *rules* listed below apply to the firm with the modifications shown.
4. In the table below, underlining indicates the insertion of new text and striking through indicates deleted text.

Rule	Modification
SUP 10C.3.13R	If: <ol style="list-style-type: none"> <li>(1) a <i>firm</i> appoints an individual to perform a function which, but for this <i>rule</i>, would be an <i>FCA-designated senior management function</i>;</li> <li>(2) the appointment is to provide cover for an <i>SMF manager</i> whose absence is:               <ol style="list-style-type: none"> <li>(a) temporary; or</li> <li>(b) reasonably unforeseen; and</li> </ol> </li> <li>(3) the appointment is for less than:               <ol style="list-style-type: none"> <li><u>(a) 12 weeks; or</u></li> <li><u>(b) (subject to (4) to (6)) thirty six weeks;</u></li> </ol> </li> </ol>

	<p>in a consecutive 12-month period;</p> <p>the description of the relevant <i>FCA-designated senior management function</i> does not relate to those activities of that individual.</p> <p><u>(3)(b) only applies if the following conditions are met:</u></p> <p><u>(4) the firm is an FCA-authorized person;</u></p> <p><u>(5) it would be impracticable for the firm to comply with the obligations that would otherwise apply if the firm replaced the SMF manager who is absent as described in (2) (such as the requirement to obtain approval under section 59 of the Act in relation to the replacement); and</u></p> <p><u>(6) the cause of that impracticability or its main cause is the Covid-19 pandemic.</u></p>
SYSC 24.2.1	<p><u>(1) A Subject to (3), a firm must allocate each of the FCA-prescribed senior management responsibilities in the table in SYSC 24.2.6R that apply to it to one or more SMF managers of the firm.</u></p> <p><u>(2) (3) applies where:</u></p> <p><u>(a) a firm appoints someone (the "Replacement") to perform a function in order to provide cover as described in SUP 10C.3.13R(1) (The 12-week rule);</u></p> <p><u>(b) the firm has allocated any FCA-prescribed senior management responsibilities (the "Responsibilities") to the SMF manager (the absent manager) who is absent as described in SUP 10C.3.13R(2);</u></p> <p><u>(c) it would be impracticable for the firm to allocate the Responsibilities to another SMF manager in accordance with (1); and</u></p> <p><u>(d) the firm has the benefit of SUP 10C.3.13R(3)(b) in relation to the Replacement.</u></p> <p><u>(3) While the disapplication of the designated senior management function provided for in SUP 10C.3.13R is still in force the firm may allocate the Responsibilities to the Replacement even though the Replacement is not an SMF manager. However, the firm may only do this if the Replacement is an employee.</u></p>

## **Interpretation and guidance**

5. Interpretative provisions (including definitions) of the *Handbook* apply to this direction in the same way they apply to the *Handbook*.
6. Any reference in the *Handbook* to a *rule* modified by this direction takes into account the modifications made to that *rule* by this direction. In particular:
  - (a) A *firm* may make an allocation of an *FCA-prescribed senior management responsibility* to an unapproved individual under the version of SYSC 24.2.1R modified by this direction during the extended thirty six period week provided for in the version of SUP 10C.3.13R modified by this direction.
  - (b) A *firm* may use SYSC 26.4.6R to allocate responsibilities under the overall responsibilities *rules* in SYSC 26 that were originally allocated to an absent *SMF manager* to a person who is providing cover for the absent manager during the extended thirty six week period provided for by the version of SUP 10C.3.13R modified by this direction.
  - (c) SUP 10C.7.5R and SUP 10C.8.8R (which deal with the interaction of the *other overall responsibility function* and the *other local responsibility function* and SUP 10C.3.13R) mean that a person standing in for an absent *SMF manager* during the extended thirty six week period provided for by the version of SUP 10C.3.13R modified by this direction does not perform the *other overall responsibility function* or the *other local responsibility function* if they take on the absent *SMF manager's* responsibilities under SYSC 26.4.6R.
  - (d) If *COCON* currently does not apply to someone who is standing in for an absent *SMF manager* under the version of SUP 10C.3.13R modified by this direction because they are an *employee* who has the benefit of the one year deferral of the application of *COCON* until 2021, that deferral will no longer apply and *COCON* will apply to that person at once.
7. SUP 10C.3.13R as modified by this direction provides a single period of up to thirty six weeks in which an unapproved individual may stand in for an absent *SMF manager* rather than one period of twelve weeks plus another of thirty six weeks.
8. If an individual has been standing in for an absent *SMF manager* for a period of between 12 and 36 weeks under the version of SUP 10C.3.13R modified by this direction at the time this direction expires, the twelve week period provided by SUP 10C.3.13R is treated as exhausted and the individual should give up the role at once unless they have already been approved as an *SMF manager*.
9. A *firm* should consider whether it needs to re-certify under SYSC 27 (Senior managers and certification regime: Certification regime) a replacement who takes on *FCA-prescribed responsibilities* of an absent *SMF manager* under the version of SYSC 24.2.1R modified by this direction, taking into account SYSC 27.2.15G (changes in a *certification employee's* role before the expiry of certificate).

10. *Firms* taking advantage of this direction are reminded of the *FCA's* expectations about internal record keeping and the seniority of the person standing in for an absent *SMF manager* in its statement titled "Senior Managers and Certification Regime (SM&CR) and coronavirus (Covid-19): our expectations of solo-regulated firms" published on 3<sup>rd</sup> April 2020.

Waivers Team  
Authorisations Division