

Chapter 22

Regulatory references

Template for regulatory references given by SMCR firms and disclosure requirements

Part One: Form of Template

Guide to using this template:

Each question must be answered. Where there is nothing to disclose, this should be confirmed by ticking the "No" box for the relevant question.

In this template:

- "we" / "our firm" refers to the firm or firms giving the reference (as set out in either 1A or 1B below) ;
- "individual" refers to the subject of the reference (as set out in 2 below); and
- "your" refers to the firm requesting the reference (as set out in 3 below).

	Information requested	Response
1A	Name, contact details and firm reference number of firm providing reference; or	
1B	Names, contact details and firm reference numbers (where applicable) of group firms providing a joint reference	
2	Individual's name (i.e. the subject of the reference)	
3	Name, contact details and firm reference number of firm requesting the reference	
4	Date of request for reference	
5	Date of reference	

The answers to Questions A to F cover the period beginning six years before the date of your request for a reference and ending on the date of this reference

Question A

Has the individual:

- (1) performed a certification function for our firm; or
- (2) been an approved person for our firm.

Answer:

Yes

No

Question B:

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

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

The answers to Questions A to F cover the period beginning six years before the date of your request for a reference and ending on the date of this reference

(4) board director.

Answer:

Yes

No

Question C:

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

(1) what the controlled function, certification function or key function holder role is or was;

(2) (in the case of a controlled function) whether the approval is or was subject to a condition, suspension, limitation, restriction or time limit;

(3) whether any potential FCA governing function is or was included in a PRA controlled function; and

(4) the dates during which the individual held the position.

Answer:

Question D:

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

Answer:

Yes

No

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

Question E:

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

Answer:

Yes

No

If 'yes' and associated disciplinary action was taken as a result, please refer to Question F below.

If 'yes', and no associated disciplinary action was taken as a result, we have set out below the facts which led to our conclusion.

Question F:

We have taken disciplinary action against the individual that:

(1) relates to an action, failure to act, or circumstances, that amounts to a breach of any individual conduct requirements that:

(a) apply or applied to the individual; or

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

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

Answer:

Yes

The answers to Questions A to F cover the period beginning six years before the date of your request for a reference and ending on the date of this reference

No

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

Question G:

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

(1) occurred or existed:

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

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

(2) is serious misconduct.

Answer:

Yes

No

If 'yes', we have provided the relevant information below.

Part Two: Definitions used in Part One

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

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

Section One: Meaning of certain terms and phrases	
Defined term or phrase	Meaning
B	B refers to the <i>employer</i> or <i>ex-employer</i> giving the reference as defined in more detail in SYSC 22.2.1R and SYSC 22.2.2R.
P	P refers to the <i>employee</i> or <i>ex-employee</i> about whom the reference is given as defined in more detail in SYSC 22.2.1R and SYSC 22.2.2R.
A finding or conclusion by B that P was not fit and proper to perform a function (see questions (E) to (F) of the template)	This means a finding or conclusion by B where: (a) B assesses the continuing fitness and propriety of P as an <i>approved person</i> in accordance with the requirements of the <i>regulatory system</i> , including when carrying out this assessment under section 63(2A) of the <i>Act</i> (annual assessment of <i>approved persons</i> by an <i>SMCR firm</i>); or (b) B assesses the fitness and propriety of P when B is proposing to issue a certificate under section 63F of the <i>Act</i> (Certification of employees by <i>SMCR firms</i>) for P. Paragraph (b) applies whether the certificate is being issued for the first time or is being renewed.
Individual conduct requirements	Individual conduct requirements mean any of the following: (a) COCON; (b) APER;

Section One: Meaning of certain terms and phrases	
Defined term or phrase	Meaning
	<p>(c)the <i>PRA's</i> Individual Conduct Standards or Senior Manager Conduct Standards in:</p> <p>(i) Chapter 3 of the Part of the <i>PRA Rulebook</i> called Insurance – Conduct Standards;</p> <p>(ii) Chapter 3 of the Part of the <i>PRA Rulebook</i> called Large Non-Solvency II Firms – Conduct Standards; and</p> <p>(iii) Chapter 2 of the Part of the <i>PRA Rulebook</i> called Non-Solvency II firms - Conduct Standards; or</p> <p>(d)the <i>PRA's</i> Individual Conduct Rules or Senior Manager Conduct Rules in:</p> <p>(i) Chapters 2 and 3 of the Part of the <i>PRA Rulebook</i> called CRR Firms: Conduct Rules; and</p> <p>(ii) Chapters 2 and 3 of the Part of the <i>PRA Rulebook</i> called Non-CRR Firms: Conduct Rules.</p>
Function (as referred to in questions (E) to (F))	A function means a function as an <i>approved person</i> or <i>certification employee</i> .
Disciplinary action	<p>Disciplinary action has the same meaning as in section 64C(2) of the <i>Act</i> (Requirement for authorised persons to notify regulatory of disciplinary action), which is:</p> <p>(a)the issue of a formal written warning; or</p> <p>(b)the suspension or dismissal of P; or</p> <p>(c)the reduction or recovery of any of P's remuneration.</p> <p>This definition applies even if B is not an <i>SMCR firm</i>.</p>
Notified non-executive director, credit union non-executive director and key function holder	These terms have the same meaning as they do in the <i>PRA Rulebook</i> .
Certification function, approved person, controlled function and PRA controlled function	These terms have the same meaning as they do in the <i>Glossary</i> .
Board director	Non-SMF board director subject to competence requirements, as defined in the <i>Glossary</i> .
Potential FCA governing function	<p>Potential FCA governing function means a function:</p> <p>(a)that would have been an <i>FCA controlled function</i> but for:</p> <p>(i)SUP 10A.11 (Minimising overlap with the PRA approved persons regime) (when that section was in force); or</p> <p>(ii)SUP 10C.9 (Minimising overlap with the PRA approved persons regime);</p> <p>(b)but instead is included in a <i>PRA controlled function</i> under the parts of the <i>PRA Rulebook</i> listed in SUP 10C.9.6G.</p>
Section Two: Supplementary requirements	
Item of template for which supplemental requirements apply	Supplemental requirements

Section One: Meaning of certain terms and phrases	
Defined term or phrase	Meaning
Questions (E) and (F)	<p>If:</p> <p>(a) the finding or disciplinary action was reached or taken by another member of B's <i>group</i> with the authority to do so; and</p> <p>(b) the finding or disciplinary action relates to conduct by P relating to the carrying on of activities (whether or not <i>regulated activities</i>) by B;</p> <p>this question applies to such finding or disciplinary action in the same way as it does to findings or disciplinary action made or taken by the <i>firm</i> itself.</p>
Question (F)	<p>This question is subject to SYSC TP 5.4.5R and SYSC TP 7.4.4R (where there is no need to disclose disciplinary action that took place before certain dates if the <i>firm's</i> records do not show whether there was a breach of individual conduct requirements).</p>
The whole of Part One of this annex	<p>The template to be used by a <i>firm</i> in giving a reference consists of everything in Part One of this annex except for the "Guide to using this template" paragraph.</p>