



LMA GUIDANCE: SENIOR INSURANCE MANAGERS REGIME (SIMR)

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INSIGHT CONSENSUS INFLUENCE

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1. SUMMARY

Starting November 2014, the PRA and FCA issued a joint series of three consultation papers ([CP26/14](#), [CP7/15](#) and [CP13/15](#)) proposing changes to the current Approved Person Regime¹. In part, the proposed changes were intended to address certain governance and fitness & propriety requirements under the SII Directive. The regulators have since published Policy Statements ([PS3/15](#)) which have included new rules setting out the new regime. This paper is intended to provide a summary of the possible implications to managing agencies' governance structure and required regulatory approvals.

2. THE PRE-SIMR APPROVED PERSONS REGIME

Broadly, the current Approved Persons Regime has remained unchanged since the Financial Services and Markets Act 2000. However, since the formation of the PRA and FCA, for dual regulated firms (including managing agencies), each regulator has assumed responsibility for the pre-approval of individuals to various roles.

The current Approved Persons Regime is as follows:

PRA Controlled Functions	
CF1	Director
CF2	Non-Executive
CF3	Chief Executive
CF4, CF5, CF6	Partner/Director of Unincorporated Association/Small Friendly Society (<u>not</u> applicable)
CF12	Actuarial Function (<u>not</u> applicable to all managing agents - applies only to long-term insurers)
CF28	Systems and Controls (could apply - responsibility for reporting to the Board in relation to its a) financial affairs; b) setting and controlling risk exposure or c) adherence to internal systems and controls, procedures and policies where responsibility does not fall under another controlled function)
FCA Controlled Functions	
CF1	Director (for FCA-only regulated firms)
CF2	Non-Executive (for FCA-only regulated firms)
CF3	Chief Executive (for FCA-only regulated firms)
CF4, CF5, CF6	Partner/Director of Unincorporated Association/Small Friendly Society (<u>not</u> applicable)
CF8	Apportionment and Oversight
CF10	Compliance Oversight (not necessarily applicable to managing agents)
CF10A	CASS Oversight (<u>not</u> applicable to managing agents CASS 'client asset rules' firms only)
CF11	Money Laundering Reporting (<u>not</u> applicable to managing agents)
CF29	Significant Management Function (could apply - only if activity is not captured under another CF)
CF30	Customer Function (<u>not</u> applicable to managing agents - relates to advice to clients)

¹ The LMA responded to each consultation. All LMA responses to regulatory consultations can be found on the [LMA website](#).

2.1 The regulatory rationale for change

The PRA committed to reforming the Approved Persons Regime for the banking sector as part of the Financial Services (Banking Reform) Act 2013. Whilst the PRA recognises that there are differences between banks and insurers, its intention is to operate a single, consistent regime wherever possible and the Senior Insurance Managers Regime (SIMR) reflects this aim.

Through its consultation process, the PRA proposed:

- a set of PRA Senior Insurance Management Functions
- rules on the allocation of responsibilities to senior insurance managers including a set of ‘Prescribed Responsibilities’
- rules requiring the notification and fit and proper assessment of individuals responsible for ‘key functions’
- rules describing how firms should assess the fitness and propriety of SIMFs and persons performing key functions
- a set of specific Conduct Standards to be applied to all SIMFs and key function holders, and a set of generic conduct standards to be applied for all persons performing a key function.

3. THE NEW PRA SIMR

The revised regime is designed to cover those persons who effectively run the business, or have responsibility for important, or critical, areas of the business. The scope of the new regime is summarised below:

Scope of new Approved Persons Regime	
Senior Insurance Management Function	These are the ‘controlled functions’ as defined in section 3.1. All SIMFs require pre-approval by the PRA. There are certain prescribed responsibilities that must be assigned to them and they are subject to both fit and proper, and conduct standards.
Key Function Holders	These persons must be notified to the PRA, who will assess their fitness and propriety. However, Key Function Holders do NOT require PRA pre-approval. They are also subject to ongoing fitness and propriety, and conduct standards.
Persons working within Key Functions	These persons are not subject to any regulatory approval or notification. However, they are subject to certain fit and proper, and conduct standards.

3.1 Senior Insurance Management Functions (SIMFs)

Under the current regime, the PRA is responsible for the pre-approval of all individual CF1 Director and CF2 Non-executive appointments in respect of PRA authorised (dual regulated) firms. Going forwards, it will expand the scope and granularity of its pre-approval requirements to include the following Controlled Functions which will be designated as Senior Insurance Management Functions [other executive or non-executive directors will no longer be subject to PRA approval, but some of these may become subject to FCA approval - see section 4.1 below]:

	Controlled Function	Description
SIMF1	Chief Executive Officer	<i>“The function of having responsibility, under the immediate authority of the governing body, alone or jointly with others, for carrying out the management of the conduct of the whole of the business (or relevant activities) of a firm”</i>
SIMF2	Chief Finance Officer	<i>“The function of having responsibility for the management of the financial resources of a firm and reporting to the governing body of a firm in relation to its financial affairs”</i>
SIMF4	Chief Risk Officer	<i>“The function of having responsibility for overall management of the risk management system specified in Conditions Governing Business 3.” (Transposition of SII requirements)</i>

SIMF5	Head of Internal Audit	<i>“The function of having responsibility for management of the internal audit function specified in Conditions Governing Business 5.” (Transposition of SII requirements)</i>
SIMF7	Group Entity Senior Insurance Manager	<i>“The function of having a significant influence on the management or conduct of one or more aspects of the affairs of a firm in relation to its regulated activities (other than in the course of the performance of another senior insurance management function) and which is performed by a person employed by, or an officer (other than a non-executive director) of i) a parent undertaking or holding company of a firm; or ii) another undertaking which is a member of the firm’s group”</i>
SIMF9 (NED)	Chairman	<i>“The function of having responsibility for chairing, and overseeing the performance of the role of, the governing body of a firm”</i>
SIMF10* (NED)	Chairman Risk Committee	<i>The function of having responsibility for chairing, and overseeing the performance of any committee responsible for the oversight of the risk management system specified in Conditions Governing Business 3.” (Transposition of SII requirements)</i>
SIMF11* (NED)	Chairman Audit Committee	<i>“The function of having responsibility for chairing, and overseeing the performance of any committee responsible for the oversight of the internal audit system specified in Conditions Governing Business 5.” (Transposition of SII requirements)</i>
SIMF12* (NED)	Chairman Remuneration Committee	<i>“The function of having responsibility for chairing, and overseeing the performance of any committee responsible for the oversight of the design or implementation of the remuneration policy of a firm”</i>
SIMF14* (NED)	Senior Independent Director	<i>“The function of performing the role of a senior independent director, and having particular responsibility for leading the assessment of performance of the person performing the Chairman function”</i>
SIMF20	Chief Actuary	<i>“The function of having responsibility for the actuarial function specified in Conditions Governing Business 6.” (Transposition of S2 requirements)</i>
SIMF22	Chief Underwriting Officer	<i>“The function of having responsibility for the underwriting decisions in respect of material insurance risks that, in relation to managing agents, are borne by members”</i>
* <i>“only...where UK or EU legislation or guidelines require...certain Board committees”</i>		

For all the above roles, a regulatory pre-approval process will operate and the firm will be required to provide the PRA with relevant information regarding the individual including their skills and experience, roles and responsibilities, and fitness and propriety.

The PRA has stated that it intends to apply the ‘principle of proportionality’ so that smaller firms will have flexibility to combine responsibilities for different functions with a single individual.

Grandfathering provisions are being implemented which will reduce the workload for both firms and the PRA. Details are provided in section 5.

3.1.1 Prescribed Responsibilities

The PRA has identified a set of ‘prescribed responsibilities’ which all firms are required to allocate to one or more individuals who have been approved for a controlled function by either regulator. These ‘prescribed responsibilities’ are in addition to any specific requirements ascribed to certain key functions within the ‘Conditions Governing Business’ within the Handbook (effectively the transposition of the SII Directive requirements; governance, risk management, internal control, internal audit, actuarial function, outsourcing etc.).

A full list of the prescribed responsibilities, and any allocation requirement, is set out in the following table:

Prescribed Responsibilities	Prescribed Allocation
1. <i>Ensuring that the firm has complied with its obligations...to satisfy itself that every person who performs a key function is a fit and proper person</i>	Must be allocated to one or more persons who are approved by the PRA
2. <i>Leading the development of the firm's culture and standards in relation to the carrying on of its business and the behaviours of its staff</i>	
3. <i>Embedding the firm's culture and standards in relation to the carrying on of its business and the behaviours of its staff in the day-to-day management of the firm</i>	
4. <i>Production and integrity of the firm's financial information and its regulatory reporting</i>	
5. <i>Management of the allocation and maintenance of the firm's capital and liquidity</i>	
6. <i>Development and maintenance of the firm's business model</i>	
7. <i>Performance of the firm's Own Risk and Solvency Assessment (ORSA)</i>	
8. <i>Policies and procedures for the induction, training and professional development for all members of the firm's governing body</i>	
9. <i>Induction, training and professional development for all the firm's key function holders</i>	Must be allocated to one or more non-executive directors
10. <i>Maintenance of the independence, integrity and effectiveness of the firm's policies and procedures on whistleblowing and for ensuring staff who raise concerns are protected from detrimental treatment</i>	
11. <i>Oversight of the firm's remuneration policies and practices</i>	

3.1.2 Fitness and Propriety

The PRA expects that all those individuals performing Controlled Functions (SIMFs) are at all times fit and proper. Firms are required to give consideration to the following:

Initial Assessment
<ul style="list-style-type: none"> ▪ Personal characteristics (good repute, integrity etc.) For SIMF roles a firm is required, with prior consent, to obtain: <u>UK Criminal Record Check</u> - the fullest information that it is lawfully able to request under Police Act 1997 <u>Overseas Criminal Record Check</u> - the fullest information that it is lawfully able to request under applicable overseas legislation <u>References</u> - appropriate references from previous employers covering at least the previous 5-years
<ul style="list-style-type: none"> ▪ Level of competence, knowledge and experience
<ul style="list-style-type: none"> ▪ Qualifications
<ul style="list-style-type: none"> ▪ Training (required and/or undertaken)
On-Going Assessment
<ul style="list-style-type: none"> ▪ Business conduct
<ul style="list-style-type: none"> ▪ Compliance with Conduct Standards

There is a greater emphasis on all persons performing a key function having appropriate qualifications, technical competencies, training and personal characteristics to perform their particular functions.

PRA and FCA regulated firms have an obligation under the new rules to provide references and all 'relevant information' of which they are aware to other regulated firms, which is relevant to their fit and proper assessment of an individual.

Firms will have an on-going obligation to inform the PRA of any changes to the identity of 'key function holders' and to inform the PRA of any "information which would reasonably be material to the assessment of a current or former key function holder's fitness and propriety".

3.1.3 Conduct standards

Tier I - Any person performing a 'key function' (i.e. any staff member working within a key function)
▪ Acting with integrity
▪ Acting with due skill, care and diligence
▪ Be open and co-operative with the FCA, the PRA and other regulators
Tier II - Any 'key function holder' (i.e. any person with responsibility for a key function)
▪ Take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively
▪ Take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system
▪ Take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively
▪ Disclose appropriately any information of which the FCA or the PRA would reasonably expect to have notice
▪ When exercising your responsibilities, you must pay due regard to the interests of current and potential future policyholders in ensuring the provision by the firm of an appropriate degree of protection for their insured benefits

3.2 Key Function Holders

3.2.1 Scope

The term 'Key Function' stems from SII, though it is only defined in high level terms in the Directive and EIOPA guidelines which were used as a basis for the PRA's proposed rulebook definition. SII Key Functions must include, as a minimum the:

- risk management function;
- actuarial function;
- internal audit function; and
- compliance functions.

However, 'Key Functions' are not restricted to these four functions – 'effectively running the firm' is another example of a Key Function, and the PRA also includes any function that is of specific importance to the sound and prudent management of the firm. Although the PRA is clear that firms should designate Key Function Holders only following an appropriate review of their business, by way of example the PRA suggests that careful consideration be given to the following functions:

- investments;
- claims management;
- IT; and
- reinsurance (if separate from the other 'Key Functions', e.g. risk management).

There is no regulatory pre-approval requirement for 'Key Function Holders' (assuming that they are not otherwise performing a Controlled Function) however, the PRA will require notification of anyone performing such a role and the provision of relevant information (skills and experience, roles and responsibilities and fitness and propriety etc.). The onus is on the firm to demonstrate the fitness and propriety of all personnel within the scope of the new regime.

Each firm is required to identify its SIMFs and specific Key Function Holders within its Governance Map. Further details on Governance Maps is provided in section 6.

3.2.2 Fitness and propriety

The PRA expects that all Key Function Holders are, at all times, fit and proper. Firms are required to give consideration to elements described in section 3.1.2 above.

3.2.3 Conduct standards

Conduct standards for Key Function Holders
<ul style="list-style-type: none"> Acting with integrity
<ul style="list-style-type: none"> Acting with due skill, care and diligence
<ul style="list-style-type: none"> Be open and co-operative with the FCA, the PRA and other regulators
<ul style="list-style-type: none"> Take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively
<ul style="list-style-type: none"> Take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system
<ul style="list-style-type: none"> Take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively
<ul style="list-style-type: none"> Disclose appropriately any information of which the FCA or the PRA would reasonably expect to have notice
<ul style="list-style-type: none"> When exercising your responsibilities, you must pay due regard to the interests of current and potential future policyholders in ensuring the provision by the firm of an appropriate degree of protection for their insured benefits

Firms and individuals performing SIMFs and Key Functions should review their internal processes and give consideration as to how they might evidence to the regulator, if challenged, that they had taken “reasonable steps” in the performance of such roles.

3.3 Persons working in Key Functions

There are no regulatory pre-approval, or notification requirements for persons working in Key Functions (other than Key Function Holders). However, the PRA expects all such persons to be fit and proper and to adhere to certain conduct standards. It is the responsibility of individual managing agents to decide how fitness and propriety is assessed (both at commencement of employment, and on an ongoing basis). The PRA’s conduct requirements are as follows:

Conduct standards for persons performing a ‘key function’ (i.e. any staff member working within a key function)
<ul style="list-style-type: none"> Acting with integrity
<ul style="list-style-type: none"> Acting with due skill, care and diligence
<ul style="list-style-type: none"> Be open and co-operative with the FCA, the PRA and other regulators

4. FCA APPROVED PERSONS REGIME

4.1 Significant Influence Functions

Going forwards, it is proposed that, for dual regulated firms, the FCA will have primary responsibility for the pre-approval of the following Significant Influence Functions:

	Controlled Function	Description
CF1	Director	“The function of acting in the capacity of a director (other than non-executive director) of that firm” (will continue to apply to all CF1 roles which are not subject to PRA approval)
CF7 (NED)	Chair Nominations Committee	“For a Solvency II firm only, if the firm has a nomination committee, the chair of the nomination committee function is the function of acting in the capacity as the chairman of that committee”

CF8	Apportionment & Oversight	<i>“The apportionment and oversight function is the function of acting in the capacity of a director or senior manager responsible for either or both of the apportionment function and the oversight function set out in SYSC 2.1.3R or SYSC 4.4.5R.”</i> [No longer applicable to managing agents (SII firms)]
CF10	Compliance Oversight	The new regime does not change the applicability of CF10 to managing agents
CF10a	CASS Money Oversight	Not applicable to managing agents (relates to permission to hold client money)
CF11	Money Laundering	Not applicable to managing agents (relates to “designated investment business”)
CF28	Systems & Controls	Could apply only if activity is not subject to PRA pre-approval
CF29	Significant Management	<i>“only applies to a firm which apportions a significant responsibility, within the description of the significant management function, to a senior manager of a significant business unit”</i>
CF30	Customer Function	Not applicable to managing agents (relates to “advice” to customers)

The FCA will require pre-approval of only one non-executive role (CF7). Non-executive directors serving on boards who do not fall within either the PRA or FCA pre-approval regimes, as they do not perform one of the prescribed roles, will become ‘unapproved non-executive directors’.

The scope of the CF10 Compliance function has not been extended by the FCA; it views the ‘compliance function’ referred to within the SII Directive as relating solely to prudential regulation. Given that Lloyd’s has embedded a large proportion of the SII tests and requirements within its revised minimum standards regime there may be an overlap in this regard with the role of the Lloyd’s Senior Nominated Person.

4.2 Conduct Rules

FCA Conduct Rules	
1	Acting with integrity
2	Acting with due skill, care and diligence
3	Be open and co-operative with the FCA, the PRA and other regulators
4	Pay due regard to the interests of customers and treat them fairly
5	Observe proper standards of market conduct
6	Take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively
7	Take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system
8	Take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively
9	Disclose appropriately any information of which the FCA or the PRA would reasonably expect to have notice

Rules 1 to 5 apply to all individuals in UK firms who have any interaction with “customers”, e.g. claims or complaints handlers.

Rules 1 to 9 apply to Significant Influence Functions.

Firms and individuals performing SIMFs and Key Functions should review their internal processes and give consideration as to how they might evidence to the regulator, if challenged, that they had taken “reasonable steps” in the performance of such roles.

5. TRANSITION (GRANDFATHERING)

Transition to the new regime will occur in the following two stages:

	Date	Description
1	1 January 2016	Implementation of the 'fit and proper' requirements in SII for those persons who will be performing, or will be responsible for, key functions (PRA)
2	7 March 2016	Start of the new SIMR/APR for SII firms. From this date, it is proposed that the conduct rules will apply to persons performing CFs (i.e. those who are pre-approved at firms)

Individuals currently approved to perform a CF, and who will be moving to a CF under the new regime may be grandfathered provided:

- he or she is performing the **corresponding role** under the existing regime immediately prior to the commencement date;
- that function, or part thereof, will become a PRA or FCA CIF under the reformed regime at the commencement date; and
- the person has complied with the notification requirements.

This means that an individual who has been authorised under the current APR and who is not substantively changing their role will not need to apply for a fresh approval (see example on page 10).

However, firms will need to submit a notification to the regulators listing those persons to be grandfathered. The form to be used for this can be found at [\(TBC\)](#) and **the deadline for notifications is 8 February 2016.**

The PRA will require all grandfathered individuals to fulfil the requirements of the reformed regime from commencement on 7 March 2016. Grandfathering provision will not be available after the deadline and new applications will need to be made. For applications that will take effect from 7 March 2016, firms should use an updated Form A.

6. GOVERNANCE MAPS

Under the proposed regime it will be mandatory for a firm to compile and maintain a 'Governance Map' (which may comprise several documents) recording the positions of those that effectively run the firm, along with the key functions within the firm and the names of the individuals in each of these positions or with responsibility for a key function. This 'Map' should also record the allocation of significant management responsibilities and reporting lines for each of these senior persons within the firm, and any wider group, and define the matters reserved for the Board (including the terms of reference of its committees).

The intention is that such documentation will be used:

- to identify the relevant individual for regulatory enquiries
- to understand how the allocation of responsibilities to individuals has changed to reflect changes to the insurer's business model or as a result of changes in the external environment
- to clarify which individuals are ultimately responsible for certain actions which supervisors expect the insurer to take.

The 'Governance Map' should be updated at least quarterly, and should be made available on request to the PRA/FCA. If significantly modified or revised, a copy of the new version must be provided to the PRA. Each previous version of the 'Governance Map' must be retained for a period of 10 years.

7. ACTIONS FOR MANAGING AGENTS

Managing agents should consider taking the following actions:

- review governance arrangements (including Group arrangements, where relevant)
- assign PRA SIMFs and FCA CIFs accordingly
- assign prescribed responsibilities to PRA SIMFs
- identify current approved persons who can be grandfathered and notify the PRA using form (TBC)
- review relevant job descriptions/terms of reference, including:
 - job title
 - regulatory approvals (if any)
 - prescribed responsibilities (if any)
 - applicable conduct rules
 - reporting lines
- create a Governance map
- review governance processes, including:
 - processes for reviewing and updating the governance map
 - process for reviewing role profiles
 - annual appraisal process
- raise awareness of the reasonable expectations of regulators and the importance of consistent and accurate record keeping.

EXAMPLE

The table below, which is for illustration purposes only, sets out the new required functions, and how a fictitious organisation might approach the new regime.

Code	Controlled Function	Identified person	Current role	Currently approved (Y/N)	Roles map directly?	New application or Grandfathering
PRA SIMF						
SIMF1	Chief Executive Officer	A	Managing Director	Yes	Yes	Grandfather
SIMF2	Chief Finance Officer	B	Director of Finance	Yes	Yes	Grandfather
SIMF4	Chief Risk Officer	C	Chief Risk Officer	Yes	Yes	Grandfather
SIMF5	Head of Internal Audit	D	Director of Finance (<i>Internal Audit is an outsourced function</i>)	Yes	No	New application
SIMF7	Group Entity Senior Insurance Manager	E	<i>Not applicable</i>			
SIMF9*	Chairman	F	Chairman (NED)	Yes	Yes	Grandfather
SIMF10*	Chairman Risk Committee	G	Chairman of Risk Committee (NED)	Yes	Yes	Grandfather
SIMF11*	Chairman Audit Committee	H	Chairman of Audit Committee (NED)	Yes	Yes	Grandfather
SIMF12*	Chairman Remuneration Committee	I	Chairman of Remuneration Committee (NED)	Yes	Yes	Grandfather
SIMF14*	Senior Independent Director	J	NED	Yes	No	New Application
SIMF20	Chief Actuary	K	Head of Actuarial	No	Yes	New Application
SIMF22	Chief Underwriting Officer	L	Director of Underwriting	Yes	Yes	Grandfather
FCA SIF						
CF1	Director	M	Head of Claims	Yes	Yes	Grandfather (Key Function Holder)
CF7*	Chair Nominations Committee	N	<i>Not applicable - no Nominations Committee</i>			
PRA KFH						
Compliance	Compliance Function	O	<i>Compliance Officer</i>	Yes	Yes	<i>Grandfather (Key Function Holder)</i>

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