

Standing of the MLRO

SYSC 6.3.10 G FSMA s59	3.10	The role of MLRO has been designated by the FCA as a controlled/Senior Management function under s 59 of FSMA. As a consequence, any person invited to perform that function must be individually approved by the FCA, on the application of the firm, before performing the function. The FCA expect that the MLRO will be based in the UK.
APER 4.7.9 E APER 2.1A.3	3.11	<p>Failure by the MLRO to discharge the responsibilities imposed on them in SYSC 6.3.9 R is conduct that does not comply with Statement of Principle 7 for Approved Persons, namely that ‘an approved person performing an accountable higher management function must take reasonable steps to ensure that the business of the firm for which they are responsible in their accountable function capacity complies with the relevant requirements and standards of the regulatory system’.</p> <p>The MLRO must have the due authority and independence to undertake their responsibility of overseeing all aspects of the firm’s AML/CTF activities including having access to all relevant information that the MLRO requires. This includes oversight in respect of AML/CTF activities undertaken by the group or other entities within or outside of the UK, where relevant to the UK regulatory system¹.</p>
SYSC 6.3.9 R SYSC 6.3.10 G SYSC 6.3.8	3.12	In FCA-regulated firms, the MLRO is responsible for the oversight of all aspects of the firm’s AML/CTF activities, although overall responsibility, or responsibility for certain AML/CTF operations, may be appointed to another director or senior manager. The individual appointed as MLRO must have a sufficient level of seniority within the firm (see paragraph 1.38). As the MLRO is an Approved Person/SMF Manager, their job description should clearly set out the extent of the responsibilities given to them, and their objectives. The MLRO will need to be involved in establishing the basis on which a risk-based approach to the prevention of money laundering/terrorist financing is put into practice.
SYSC 4.4 SYSC 6.3.9(1) R SYSC 6.3.10 G	3.13	Along with the SMF Manager (see paragraph 1.37), an MLRO will support and co-ordinate senior management focus on managing the money laundering/terrorist financing risk in individual business areas. They will also help ensure that the firm’s wider responsibility for forestalling and preventing money laundering/terrorist financing is addressed centrally, allowing a firm-wide view to be taken of the need for monitoring and accountability. This should take account of all activities undertaken by group and other entities where relevant to the UK regulatory system.
	3.14	As noted in paragraph 1.41, the relationship between the MLRO and the director(s)/senior manager(s) allocated overall responsibility for the establishment and maintenance of the firm’s AML/CTF systems is one

¹ This pertains to the UK firm’s obligations within the UK AML/CTF regime and as aligned with SYSC 6 – referring to the firm’s UK perimeter AML/CTF activities subject to UK MLRO oversight.

of the keys to an effective AML/CTF regime. It is important that this relationship is clearly defined and documented, so that each knows the extent of their, and the other's, role and day to day responsibilities.

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| Regulation 21(1)(a) | 3.15 | Where the firm is required to appoint a board member or member of its senior management as the officer responsible for the firm's compliance with the ML Regulations, it is important that this individual, the MLRO and the director(s)/senior manager(s) allocated overall responsibility for the establishment and maintenance of the firm's AML/CTF systems (see paragraph 3.14) are all clear as to the responsibilities of each. |
| SYSC 6.3.9(2) R | 3.16 | The MLRO must have the authority to act independently in carrying out their responsibilities. The MLRO must be free to have direct access to the FCA and (where they are the nominated officer) appropriate law enforcement agencies, including the NCA, in order that any suspicious activity may be reported to the right quarter as soon as is practicable. They must be free to liaise with the NCA, on their own authority, on any question of whether to proceed with a transaction in the circumstances. |
| SYSC 6.3.9(2) R | 3.17 | Senior management of the firm must ensure that the MLRO has sufficient resources available to them, including appropriate staff and technology. This should include arrangements to apply in their temporary absence. |
| | 3.18 | Where a firm is part of a group, it may appoint as its MLRO an individual who performs that function for another firm within the group. If a firm chooses this approach, it may wish to permit the MLRO to delegate AML/CTF duties to other suitably qualified individuals within the firm. Similarly, some firms, particularly those with a number of branches or offices in different locations, may wish to permit the MLRO to delegate such duties within the firm. In larger firms, because of their size and complexity, the appointment of one or more permanent Deputy MLROs of suitable seniority may be necessary. In such circumstances, the principal, or group MLRO needs to ensure that roles and responsibilities within the group are clearly defined, so that staff of all business areas know exactly who they must report suspicions to. |
| SUP 10C.3.13 R | 3.19 | Where an MLRO is temporarily unavailable, no pre-approval for a deputy will be required for temporary cover of up to 12 weeks in any consecutive 12-month period. For longer periods, however, FCA approval will need to be sought. Rather than appointing a formal deputy, smaller firms may prefer to rely on temporary cover. |
| | 3.20 | Where AML/CTF oversight activities are delegated by a firm's MLRO, the FCA will expect the MLRO to continue to have ultimate responsibility for those activities. |

Monitoring effectiveness of money laundering controls

SYSC 6.3.3 R SYSC 6.3.9(1) R SYSC 6.3.10 G	3.33	<p>A firm is required to carry out regular assessments of the adequacy of its systems and controls to ensure that they manage the money laundering risk effectively. Oversight of the implementation of the firm's AML/CTF policies and procedures, including the operation of the risk-based approach, is primarily the responsibility of the MLRO, under delegation from senior management. The MLRO must therefore ensure that effective and appropriate monitoring processes and procedures are established and maintained including across group entities (within and outside the UK) that undertake UK AML/CTF specific activities. For example, including the ability to test or review activities (see also paragraphs 2.22-2.24).</p>
Regulation 21(1)	3.34	<p>However, where appropriate with regard to the size and nature of its business, a firm must establish an independent internal audit function with responsibility for:</p> <ul style="list-style-type: none">➤ examining and evaluating the adequacy and effectiveness of the policies, controls and procedures adopted by the firm to comply with the requirements of the ML Regulations;➤ making recommendations in relation to those policies, controls and procedures; and➤ monitoring the firm's compliance with those recommendations.
	3.35	<p>Effectiveness of systems and controls is therefore driven by a combination of features, including:</p> <ul style="list-style-type: none">➤ ensuring that policies and procedures reflect current legal and regulatory developments and requirements;➤ having appropriate monitoring processes, with timely follow up of findings;➤ the adequacy of resources available;➤ appropriate monitoring of outsourced compliance arrangements;➤ adequately trained staff, who are up to date with current developments;➤ having appropriate quality control/internal review processes;➤ appropriate management information made available to senior management and those with supervisory responsibilities;➤ the work of any internal audit function.
Regulation 20	3.36	<p>The effective operation of group systems and controls in branches and subsidiary undertakings and other group entities outside the UK, where relevant to the UK regulatory system, will be influenced by the ability of the group to ensure that these can be followed without local restrictions, whether in law or otherwise (see paragraphs 1.60 - 1.62).</p>