

Overview

The Senior Managers and Certification Regime formerly known as the 'Approved Persons Regime', is being revised, with the FCA's aim being to ensure that those working within financial services (i.e. banks and (re)insurers) at all times comply with new regulations brought forward, and a strengthening of the market as a whole as well as boosting its integrity.

The SMCR will extend to insurers and reinsurers regulated by the FCA and the PRA and will come into force from 10th December 2018 onwards, however, these firms will have a year's time to train their staff on the new requirements brought in by the SMCR, identify their Certification Staff and complete the initial certification process.

Senior Manager's Regime

Senior managers will have a duty of responsibility to make sure that they take all reasonable steps to avoid breaches of regulatory duties for which they are responsible. They will also have prescribed responsibilities which will vary depending on the firm, these will be specific functions that the FCA requires firms to assign to their senior managers in order to enable insurers to map out all the functions that will be required under the new regime. The focus lies on relevant persons having responsibilities that relate to their day-to-day work and allow staff to build on this in order to ensure individual duties are carried out to the best of their ability. Altogether, this will strengthen and tighten the workforce and firms' performance as a whole.

Once the prescribed responsibilities have been allocated to relevant persons, a statement setting out these responsibilities will be created, otherwise known as SoRs (Statement of Responsibilities). This will replace the existing governance maps and serves to provide clarity and certainty about the individual responsibilities of each senior manager. It will be vital to regularly review SoRs so that necessary amendments can be made when there is a change in a senior manager's circumstance.

Finally, every organisation must maintain a 'Responsibilities Map', which is a document that details the day-to-day, weekly and annual responsibilities that play major roles in the daily operations of the organisation. Firms each have their own structure in how they work and will therefore have responsibilities maps that may differ vastly across each organisation.

Certification Regime

Insurers will be required to identify the individuals who will be performing "Certification functions". Certification functions are functions that relate to regulated activity that might involve a risk of significant harm to the firm or any of its customers. Certification staff will not be approved by the FCA, instead the responsibility for ensuring that those staff are fit and proper to carry out their tasks will fall on the firms themselves. Insurers must therefore establish and maintain procedures that will allow them to effectively determine whether individuals are fit and proper, after which the outcome of these assessments will be maintained and kept on record.

- Compliance
- Internal Audit
- Risk Management
- Corporate Governance

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Conduct Rules

The Conduct Rules will apply to insurers in the same capacity they apply to solo and dual-regulated firms. They aim to shape the culture and standards to be applied by virtually all individuals who work within an FCA and/or PRA regulated firm.

There will be two tiers of Conduct Rules, with the first tier being a set of rules that will apply to most employees within a firm, these are called the Individual Conduct Rules and comprise the first five key rules, notably:

Tier one – Individual Conduct Rules:

- a) You must act with integrity
- b) You must act with due skill, care and diligence
- c) You must be open and cooperative with the FCA, PRA and other regulators
- d) You must pay due regard to the interests of customers and treat them fairly
- e) You must observe proper standards of market conduct

The second tier of Conduct Rules are rules that only apply to Senior Managers.

Tier two – Senior Manager Conduct Rules:

- f) You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.
- g) You must 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.
- h) You must 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.
- i) You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice.

All other staff except for ancillary staff, i.e. staff who don't perform a role specific to financial services such as receptionists, must also be trained in individual conduct rules.

What steps to take?

Insurers must take the necessary steps to understand both the current SIF functions that individuals will perform and the equivalent mapped function under the SMCR. They must understand what the new regime entails and ensure that they are adequately resourced to implement all aspects of the SMCR. Staff must also be given appropriate training on Conduct Rules that must include specific internal rules specific to the Conduct Rules.

These procedures will be vital in assessing whether a regulator could withdraw the approval given to an approved person as they are checked at the very least on a yearly basis.

What should firms be considering now?

Firms are encouraged to complete a gap analysis of their current policies and procedures against the requirements of the SMCR and identify the individuals that will be impacted by the new regime. Our Compliance Team remain abreast of regulatory developments concerning the transition to the Senior Managers Regime and are happy to advise firms on the new requirements. Book a consultation with us today to discuss your needs.