

# SMCR – what is it and what does it mean for you?



## **At the end of last year the FCA published its long-awaited technical consultation on the extension of the Senior Managers and Certification Regime (SMCR) to all firms across the financial services sector.**

So what is it, and what does it mean for firms due to come under the regime? And what should they be doing to get ready?

### **What is SMCR?**

In March 2016, the PRA & FCA introduced a new set of regulations into the UK banking sector. Designed to increase focus on corporate accountability and raise standards of professional behaviour, the SMCR (Senior Managers and Certification Regime) has been seen by many as the most significant piece of regulation in the industry for a generation.

The SMCR replaced the Approved Persons Regime for banks, building societies, credit unions and dual-regulated (FCA and PRA regulated) investment firms in March 2016. This regime is now being extended to all firms across the sector.

The FCA is proposing that the insurance sector will transfer to the new rules at the end of 2018 and all other sectors – including financial advisers – will come under the regulations in 2019.

The most senior people ('senior managers') performing key roles ('senior management functions') need FCA approval before starting their roles.

The Certification Regime applies to employees who aren't senior managers but whose role means it's possible for them to cause significant harm to the firm or customers. These roles are called 'certification functions'.

These people don't need to be approved by the FCA, but firms need to check and certify that they are fit and proper to perform their role. This has to be done at least once a year.

The conduct rules are high-level standards of behaviour that apply to almost everyone in the banking sector. There are also some Conduct Rules that only apply to senior managers.

Firms need to make sure staff are trained in and know that the Conduct Rules apply to them, and to notify FCA when someone breaches a conduct rule.

### **What does the consultation paper say?**

If you're involved in implementing the changes you'll want to read the consultation in detail, but in summary the key points are:

- Although implementation deadlines have not yet been set by HM Treasury, implementation dates in 2019 could be phased by sector.
- Individuals will be allowed to automatically transition from their current Control Functions (CFs) to the equivalent Senior Manager Functions (SMFs) assuming it is a 'like for like' transfer.
- Once HM Treasury sets the implementation deadline the FCA will then set their deadline for those firms/individuals that will need to put in 'conversion' papers.
- Assuming no changes to their business, Core Firms will transition automatically without the need to submit papers to the FCA as before.
- Core Firms will not need to submit Statements of Responsibility (SORs) for SMFs to the regulator prior to the implementation deadline, however, they will have to have defined them and have them in place internally.
- Enhanced firms will need to submit conversion documentation to the regulator prior to the noted deadline.
- Firms will have 1 year from implementation date to certify their staff, (the same as the banks).
- All Senior Managers and Certified Individuals staff will be subject to the new Conduct Rules (COCON) from the moment the regime starts.
- The categorisation of those that fall into the Certification Regime, i.e. the affected roles, must be defined before the regime goes live.
- Staff that are not members of the SMCR but are subject to the Tier 1 rules will have one year from the implementation date to receive the training that they require.
- There is a special conversion process for NEDs that hold a Chair position within a board, i.e. moving from CF2 to SMF 9.
- Based on the timing of the consultation process, the likelihood is that the regulator will issue final guidance in the summer of 2018.

The FCA has given firms until 21 February to comment on the approach.

## So what do firms think?

Ahead of the consultation being published, The London Institute of Banking & Finance (LIBF) asked its members<sup>[1]</sup> what they knew about the changes and what plans they had in place.

The survey produced some very interesting results. For example:

- Although all compliance professionals surveyed were aware of the impending regulation, only 30% of firm owners/principals and 50% of wealth managers/advisors said they were.
- Of those that were aware, over 70% of firm owners/principals, 66% of wealth managers/advisors and even 30% of compliance professionals were unsure what category their firm would fit under in the new rules<sup>[2]</sup>. FCA guidance should help clarify that.
- Although 90% of compliance professionals and 66% of firm owners/principals felt there was sufficient expertise within their firms to implement the new regulations, they were also very focused on the need for practical support. Compliance professionals were keen to get very practical guidance, e.g. e-learning materials and training for board members.
- Over 50% of firm owners/principals and wealth managers/regulator advised and 100% of compliance professionals cited a desire for guidance and support from professional bodies such as LIBF.

## Top tips for getting ready

- **Get started:** sounds obvious but set up a project team as soon as possible. Assign people, budget and terms of reference plus, importantly, assign a senior manager as sponsor to ensure 'traction'.

*Starting too late was a major cause of under preparedness in some banks; don't let that happen to you.*

- **Draw up your roadmap:** identify what category your firm will fall under and understand the basic rules and transition arrangements for that category. This will highlight the tasks and inform the roadmap for the project team.

*The regulator has already provided the information you need to do this.*

- **Set an early deadline:** Aim for a project completion deadline of December 2018.

*Although this is several months ahead of the practical deadline, it builds some contingency into your preparations and ensures any unforeseen issues won't leave you exposed.*

## Help To Get Ready

Throughout 2018 LIBF is running a number of events to support firms in their preparations for SMCR. Further detail about these initial sessions can be found via on LIBF's website.

[libf.ac.uk/news-and-insights/events](http://libf.ac.uk/news-and-insights/events)

[libf.ac.uk/news-and-insights/events?EventID=11854](http://libf.ac.uk/news-and-insights/events?EventID=11854)

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[1] Respondents were from regulated firms with over 80% coming from the wealth management or regulated advice sectors. Respondents were either the firm owners/principals, compliance professionals or wealth managers/financial advisors. Firms responding tended to be small with most firms having less than 50 staff, and only 13% of wealth managers/financial advisors and 20% of compliance professionals reporting themselves as being from firms with more staff.

[2] Firms will be categorised into either Limited, Core or Enhanced, with the rules flexing dependant on the firm's size and nature of its business.