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The Senior Managers and Certification Regime (SM&CR) for UK Regulated Firms



The requirements

Since its inception in 2016, the Senior Managers and Certification Regime or SM&CR (which consists of the Senior Managers Regime, the Certification Regime, and the Conduct Rules), has seen a series of extensions to the scope of financial services firms required to comply with the regime, and SM&CR now applies to almost every firm regulated by the FCA.

There are three categories of regulated firms under SM&CR:



Limited Scope

Firms which had exemptions under the Approved Persons Regime (APER). They are exempt from some baseline requirements and will typically have fewer Senior Management Functions (SMFs).



Core

The majority of solo-regulated firms. They have to comply with the baseline SM&CR requirements.



Enhanced

A relatively small number of firms whose size, complexity and potential impact on consumers or markets warrant greater attention. They have to fulfil extra requirements under SM&CR.

What are firms' responsibilities?

SM&CR can be split into three key pillars and summarised as follows:

Senior Managers Regime

- 'Senior Management Functions' (SMF's).
- Specific 'Prescribed Responsibilities' must be allocated to one or more SMF's.
- SMFs complete individual 'Statements of Responsibilities' (SoR) and also have a 'Duty of Responsibility' under SM&CR.
- Firms need to apply to the PRA and / or the FCA for approval for individuals to carry out SMFs and must undertake a criminal record check (in addition to other fitness and propriety checks) when recruiting into a SMF role.

Certification Regime

- The Certification Regime applies to all employees who undertake a role that can potentially cause detriment to both a firm and its customers.
- The FCA has defined a list of certified roles found on a public register called 'The Directory' and it's the firm who must ensure that their employees are assessed as 'Fit and Proper' at least annually, to carry out their roles, and issue them with a certificate to show that the employee has 'been assessed as competent'.
- A senior manager within the firm will hold the prescribed responsibility for the Certification Regime and be held personally responsible for ensuring certified individuals remain 'fit and proper' to perform their role.

Conduct Rules

- Conduct Rules applies to a broader employee population within a firm.
- Tier 1 - Individual Conduct Rules apply to all employees, excluding ancillary staff.
- Tier 2 - Senior Manager Conduct Rules apply to those in SMF positions and requires them to take reasonable steps to control their areas of responsibility.
- Senior Manager Conduct Rule 4 also applies to non-executive directors.



The Responsibilities Map (RM)

In addition to the baseline requirements of SoRs and Prescribed Responsibilities, dual regulated firms and solo regulated enhanced firms have a number of additional requirements, which do not apply to Limited and Core firms.

Responsibilities Map (RM)

The RM is a single document setting out, amongst other information: the firm's governance arrangements; details of the senior management team; reporting lines; the allocation of Prescribed Responsibilities. Firms need to ensure the RM is kept up to date at all times. The Prescribed Responsibility for ensuring the firm complies with the requirement to complete and maintain the RM must be allocated to one of the firm's SMFs.

RMs (and SoRs) are important supervisory and enforcement tools for regulators. They allow regulators to identify who is responsible for every area of a firm. It is clear that when something goes wrong, RMs will be used by regulators to identify who is individually accountable for the area of the business where the incident occurred.

Overall Responsibility

Every activity, business area and management function must have a senior manager with overall responsibility for it.

This individual must possess the appropriate levels of seniority and authority. They will have primary and direct responsibility for:

- Briefing and reporting to the governing body about their area of responsibility
- Putting matters for discussion and decision about their area of responsibility to the governing body for consideration.

Handover Agreements

A firm must take all reasonable steps to make sure that a person taking a senior manager role has all the information and materials they could reasonably expect to have, relating to their area(s) of accountability, to do their job effectively. The firm must have a policy which explains how it complies with this requirement and maintain adequate records of the steps it has taken.



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