

Senior Managers and Certification Regime Extension

On 04 July 2018, the FCA published its “near final” rules on extending the Senior Managers and Certification Regime (SMCR) to all FCA solo-regulated firms and insurers in its Policy Statement [18/14](#) and [18/15](#). We are currently reviewing these and will update this microsite and the Simmons & Simmons’ extension of SMCR toolkit in due course.

The rules were published in conjunction with:

- an [FCA Guide](#) for solo-regulated firms on the regime
- a [PRA policy statement](#) and a [guide](#) on the extension of SMCR to insurers
- [FCA Final Guidance](#) on the duty of responsibility, and
- an [FCA Consultation](#) on the proposal to introduce a new public register for checking the details of key individuals working in financial services.

The key points to note for FCA solo-regulated firms are:

- SMCR will apply to FCA solo-regulated firms from **09 December 2019**.
- The rules are described as “near final”. They are subject to commencement regulations to be made by HM Treasury (and may be subject to change in connection with subsequent handbook amendments, Brexit developments and/or “SMCR optimisation”) but the FCA do not expect to make any significant changes.
- In large part the FCA is implementing the proposals as consulted on. The approach is still based on legal entities and senior managers will need a statement of responsibility for each senior manager function they hold at each such firm.
- The few changes are generally positive for firms - they include:
 - the removal of the Prescribed Responsibility (which applied to Core Firms only) to inform the governing body of their legal and regulatory obligations - a helpful development
 - the introduction of an easy process for firms who wish to voluntarily apply for a higher regime tier (eg from Core tier to Enhanced tier, and
 - a change, reflecting consultation feedback, to the approach to calculating whether firms should be enhanced firms, to smooth out the impact of in-year anomalies by assessing over a rolling average of three years (eg firms with Assets Under Management of >£50bn, firms with current total intermediary regulated business revenue of >£35m, firms with annual revenue generated by regulated consumer credit lending >£100m and mortgage lenders with >10,000 regulated mortgages, in each case calculated as a three year rolling average).
- Unhelpfully, there continues to be a lack of prescriptive guidance on the extent to which partners will fall within the Senior Management function.
- The FCA also does not intend to issue prescriptive guidance on the assessment of fitness and propriety on the basis that it considers firms best placed to decide how their internal employee assessments should be carried out.
 - The FCA has issued a Guide for solo regulated firms on the regime more generally which provides practical guidance and includes confirmation that:
 - the FCA will contact firms ahead of implementation to confirm the FCA’s indicative assessment of the firm’s tier status, and firms will have to identify and train Senior Managers and Certified staff by 09 December 2019, but

will have a transitional 12 month period to complete their initial certification process and train all other staff.

Background to SMCR Extension

The FCA published its initial consultation paper ([CP17/25](#)) on extending the SMCR to all FCA solo-regulated firms on 26 July 2017. We discussed the consultation paper with clients and contacts across the industry and submitted [our response](#). The consultation closed on 03 November 2017.

On 13 December 2017, the FCA published two further consultation papers relating to FCA solo-regulated firms: (i) [CP 17/40](#) on transitioning to the SMCR and how firms and their senior staff will move over to the new regime, and (ii) [CP 17/42](#) on the duty of responsibility. These consultations closed on 21 February 2018.

Our SMCR Extension Toolkit

Our specialist team has developed the SMCR Extension Toolkit in response to client demand for cost-effective, practical and user-friendly templates and guidance on how to comply with the extension of the Senior Managers and Certification Regime to all FCA regulated firms. Designed to meet the needs of Management, Compliance, HR and Legal, [the Toolkit is available here](#).

Extension to insurers

This microsite relates to the new regime as it affects wider financial services firms. There are differences in the proposed regime for insurers on which the FCA and PRA have now published Policy Statements. Our commentary on the PRA and FCA Policy Statements on the extension of SMCR to insurers can be found [here](#).

FCA proposal to introduce new public register

The FCA is separately consulting on a proposal to introduce a new public register for checking the details of key individuals working in financial services. Our detailed note on the consultation and next steps can be found [here](#).



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