

Extending the Senior Managers & Certification Regime to FCA firms

In July 2017, the FCA consulted on extending the SM&CR to almost all firms regulated only by the FCA and not the PRA ('solo-regulated' firms) in Consultation Paper CP17/25 – 'Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms' and CP17/40 – 'Individual Accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime'.

The FCA published their Policy Statement PS18/14 this month documenting the feedback to CP17/25 and CP17/40, and near-final rules.

The aim of the Senior Managers & Certification Regime (SM&CR) is to reduce harm to consumers and strengthen market integrity by creating a system that enables firms and regulators to hold people to account. As part of this, the SM&CR aims to:

- encourage staff to take personal responsibility for their actions;
- improve conduct at all levels;
- make sure firms and staff clearly understand and can demonstrate who does what.

The FCA received 225 responses to CP17/25 and 47 responses to CP17/40. The vast majority of those responses supported the proposals set out. Many respondents asked for further clarification on how the rules apply, showing that some further work is required before firms are able to fully understand this new regime.

As a result of the responses received, the FCA has made the following changes to the CP17/25 proposals:

- removed the Prescribed Responsibility (that only applied to Core firms) to inform the governing body of their legal and regulatory obligations;
- provided an easy process for firms to tell us they wish to voluntarily apply a higher regime tier;
- amended three of the Enhanced criteria to smooth single-year anomalies;
- lengthened the time period from 6 to 12 months for a firm to implement the Enhanced tier, once they have met relevant criteria 1.17.

They also intend to implement the proposals set out in CP17/40 largely as proposed, but have made two changes:

- aligned the REP008 reporting period for Limited Permission Consumer Credit firms with their annual return;
- adjusted a number of regulatory forms following specific feedback.

Firms affected by these changes will move to the new regime on 9 December 2019. Firms should check that they have the appropriate people in the correct approved functions before approved individuals are converted from the APR to the SM&CR. This will help to make the move to the new regime as effective as possible.