



Alternative.
Legal.
Solutions.

SMCR A to Z

Summary

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Section 1

Introduction

1.1 The Senior Managers Regime

This overview covers the following:

- What Senior Management Functions are;
- What all firms and Senior Managers need to do under the SMR;
- What Prescribed Responsibilities are; and
- The extra requirements that Enhanced firms need to apply under the SMR

1.2. Senior Management Functions (SMFs)

A SMF is a new type of controlled function under FSMA. These functions apply to UK-authorized firms and EEA Branches. People who hold these functions are Senior Managers. They are the most senior people in a firm with the greatest potential to cause harm or impact upon market integrity. Particular SMFs are required to be recorded so that the FCA know who a firm's most senior decision makers are, and to make sure firms clearly allocate responsibilities to those key individuals. Anyone who performs an SMF needs to be approved prior to role commencement.

1.3. Statements of Responsibilities (SoRs)

A SoR is a single document that every Senior Manager will need to have, setting out their role and responsibilities, required under FSMA.

SoRs need to set out what Senior Managers are responsible and accountable for, rather

than how they carry out those responsibilities. A SoR needs to be self-contained and not refer to other documents. SoRs should be succinct and clear without unnecessary detail.

If a Senior Manager holds multiple SMFs at the same firm they will only need one SoR, but this must clearly describe all of their responsibilities. If a Senior Manager holds multiple SMFs across different firms within a group, they will need one SoR per firm.

Companies will need to submit a SoR when applying for a Senior Manager to be approved. SoRs need to be kept up to date, and resubmitted whenever there's a significant change to a Senior Manager's responsibilities.

1.4. The Duty of Responsibility

Every Senior Manager will have a Duty of Responsibility under FSMA. This means that if a firm breaches one of the requirements, the Senior Manager responsible for that area could be held accountable if they did not take reasonable steps to prevent or stop the breach.

The burden of proof lies with the FCA to show that the Senior Manager did not take the steps a person in their position could reasonably be expected to take to avoid the firm's breach occurring.

When deciding whether to take action against someone based on the Duty of Responsibility, circumstances include the seriousness of the breach, the person's position, responsibilities, the need to use enforcement powers effectively and proportionately.

Sometimes, it will be appropriate to take action against a Senior Manager, sometimes against a firm, and sometimes against both. These decisions will be made on a case by case basis.

1.5. Impact on firm governance and structure

The SM&CR does not require firms to change their governance structure or hire new people to fill specific roles. The ultimate decision-making body of most firms is their governing body, acting collectively. Individual accountability under the SM&CR does not undermine this. However, individual Senior Managers have an important part to play in establishing and embedding the right culture and governance within firms, to improve the standard of conduct at all levels.

The SMFs only apply if you have someone doing these jobs or the SMF is a 'Required Function'. For example, if you do not have a Chair or are not required to have a money laundering reporting officer (MLRO), you don't need to appoint someone as a result of the SM&CR.

1.6. Holding more than one SMF

It is possible to hold more than one SMF. For example, an SMF3 – Executive Director may also hold the SMF17 – Money Laundering Reporting Officer function. The need for this will be determined by the governance structure of the firm.

The person will need to apply for approval from the FCA for each function using the same form for all functions. They will only need one SoR but this must clearly describe all of their responsibilities.

1.7. Overseas Senior Managers

There is no territorial limitation on the Senior Managers Regime, which means that it will apply to anyone who performs a Senior Manager role, whether they are based in the UK or overseas.

1.8. The 12-week rule

The Senior Managers Regime allows someone to cover for a Senior Manager without being approved, where the absence is temporary or reasonably unforeseen, and the appointment is for less than 12 consecutive weeks.

1.9. Outsourcing under the SMR

If your firm relies on a third party for the operational functions of the firm, your firm is still fully responsible for carrying out all of its regulatory obligations. While you may outsource the function, you cannot outsource accountability for this function.

1.10. Applying conditions when approving Senior Managers

FSMA granted the FCA new powers to apply conditions and time limits when approving Senior Managers. Under the extension of the SM&CR FSMA are able to:

- Approve a Senior Manager, but make this subject to conditions;
- Approve a Senior Manager for a limited time only; and
- Change existing approvals, including imposing, changing or removing conditions or time limits.

An example of where time-limited approval may apply might be where a firm needs to appoint a candidate on an interim basis while seeking a permanent candidate for a particular function.

Circumstances where the FCA may consider imposing, changing or removing conditions might include examples where approval is linked to required remedial actions to be undertaken by the firm.

1.11. Prescribed Responsibilities (PRs)

PRs are specific responsibilities that a firm must give to a Senior Manager. They are in addition to the inherent responsibilities that are an essential part of a Senior Manager's role. The FCA prescribe these responsibilities to make sure a Senior Manager is accountable for key conduct and prudential risks.

1.12. Who the PRs should be given to

Each PR should be given to the Senior Manager who is the most senior person responsible for that activity. They will need to have sufficient authority, level of knowledge and competence to carry out the responsibility properly.

When allocating PRs firms should think about who in practice is the most senior person for an issue.

Giving a Senior Manager a PR won't require re-approval by the FCA, but when a firm moves a PR from one Senior Manager to another, the relevant SoRs must be updated to reflect these changes and submitted to the FCA. Firms must also make sure that individuals have the necessary skills and capability to carry out the role.

1.13. Dividing and sharing a PR

Each PR should normally be held by only one person. Firms can only divide or share a PR in limited circumstances, where they can show that this is appropriate and justifiable.

If a firm divides or shares a PR, it will need to show why this is justified and confirm that this does not leave a gap.

For example, it could be justified to share a function or responsibility:

- As part of a job share;
- Where departing and incoming Senior Managers work together temporarily as part of a handover; and
- Where a particular area of a firm is run by two Senior Managers.

Where responsibilities are shared or divided, this must be clearly explained in the relevant SoRs (and Responsibilities Map for Enhanced firms). In general, where responsibilities are shared, each Senior Manager will be jointly accountable for those responsibilities.

1.14. Partnerships under the Senior Managers Regime

Where a partner performs a Senior Management Function, their responsibilities will need to be clearly set out in their SoR. The FCA recognises that responsibilities within partnerships could be allocated in different ways. Firms should explain how this works in their firm in each of the Partner's SoRs.

Partnerships will also need to assign the applicable PRs among their Senior Managers. The FCA would not normally expect the PRs to be divided or shared between these partners.

Section 2

How the Senior Managers Regime applies to Core firms

2.1. Core SMFs

There are 6 SMFs within the Core SMR.

2.1.1 SMF1 – Chief Executive –

This is the person(s) with responsibility, under the immediate authority of the governing body, for the conduct of the whole of the business (or relevant activities). Note: Although the Chief Executive is the most senior member of an executive team, it does not mean that a firm's governing body cannot allocate specific responsibilities to other Senior Managers.

2.1.2 SMF3 – Executive Director

A director of a firm, other than a Non-Executive Director.

2.1.3 SMF27

Partner - A partner in a firm, other than a limited partner in a partnership registered under the Limited Partnership Act 1907.

2.1.4 SMF9 - Chair

The person with responsibility for chairing, and overseeing the performance of the role of, the governing body of the firm.
Required Functions

2.1.5 SMF16 Compliance Oversight

This is the person responsible for the compliance function in the firm and reporting to the governing body on this.

2.1.6 SMF17 Money Laundering Reporting Officer

This is the person who has responsibility for overseeing the firm's compliance with the FCA's rules on systems and controls against money laundering.

The SMF9 – Chair is the only approved function that can be held by a Non-Executive Director (NED). Other NEDs currently approved to hold the CF2 function under the APR will no longer need to be approved by the FCA, and their existing approval will lapse at the start of the new regime.

These NEDs will, however, still be subject to the FCAs Conduct Rules, fit and proper requirements and regulatory reference rules.

2.2 Core Prescribed Responsibilities

FSMA are implementing five Prescribed Responsibilities that must be given to Senior Managers and an additional responsibility for Authorised Fund Managers (AFMs).
Prescribed Responsibilities as follows:

2.2.1 Performance by the firm of its obligations under the SMR, including implementation and oversight

2.2.2 Performance by the firm of its obligations under the Certification Regime

2.2.3 Performance by the firm of its obligations in respect of notifications and training of the Conduct Rules

2.2.4 Responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime

2.2.5 Responsibility for the firm's compliance with CASS (if applicable)

2.3 Authorised Fund Managers

Responsibility for an AFM's assessments of value, independent director representation and acting in investors' best interests. This PR only applies to AFMs.

Section 3

How the Senior Managers Regime applies to Limited Scope firms

3.1. There are 3 SMFs within the Limited Scope tier:

Required Functions	Description
SMF29 – Limited Scope Function	This was called the Apportionment and Oversight Function (CF8) under the APR. It is the person who deals with the apportionment of responsibilities under SYSC 4.4.3 R and oversees the establishment and maintenance of controls under SYSC 4.1.1 R.
SMF16 – Compliance Oversight	This is the person responsible for the compliance function in the firm and reporting to the governing body on this
SMF17 – Money Laundering Reporting Officer	This is the person who has responsibility for overseeing the firm's compliance with the FCA's rules on systems and controls against money laundering

3.2. The number of functions that a Limited Scope firm needs will depend on specific permissions and activities:

Firm Type	Senior Management Functions
Limited Permission Consumer Credit firms that have a CF8 under the Approved Persons Regime	SMF29 - Limited Scope Function (this is the same as the Apportionment and Oversight Function under the APR)
Claims Management Companies that do not carry on any other type of FCA-regulated activity	SMF29 - Limited Scope Function SMF16 - Compliance Oversight (Class 1 firms only) ³
Claims Management Companies that are also insurance intermediaries (and may also advise on P2P agreements but nothing else)	

Claims Management Companies that are also limited permission consumer credit firms	
Sole traders with no employees	SMF16 - Compliance Oversight In practice, a sole trader with no employees is only required to have an SMF16 where required by relevant rules, for example if it is a Class 1 CMC. Core tier Senior Management Functions may apply where a sole trader with employees has a governance body comprising of individuals who perform relevant roles, rare in practice
Authorised professional firms whose only regulated activities are non-mainstream regulated activities	SMF16 - Compliance Oversight SMF17 - Money Laundering Reporting Officer SMF29 - Limited Scope Function
Oil market participants and energy market participants whose principal purpose is to carry on activities other than regulated activities and are not MiFID investment firms, service companies, subsidiaries of local authorities and registered social landlords	SMF16 - Compliance Oversight SMF17 - Money Laundering Reporting Officer SMF29 - Limited Scope Function
Insurance intermediaries whose principal business is not insurance intermediation and who only have permission to carry on insurance mediation activity in relation to noninvestment insurance contracts	SMF29 - Limited Scope Function

Section 4

How the Senior Managers Regime applies to Enhanced firms

4.1 SMCR Roles & Responsibilities

Function Name	Description
Governing Function	
SMF1 – Chief Executive	This is the person(s) with responsibility, under the immediate authority of the governing body, for the conduct of the whole of the business (or relevant activities). Note: Although the Chief Executive is the most senior member of an executive team, it does not mean that a firm’s governing body can’t allocate specific responsibilities to other Senior Managers.
SMF3 – Executive Director	A director of a firm, other than a Non-Executive Director
SMF7 - Group Entity Senior Manager	This is someone with significant influence on the management or conduct of the affairs of the UK-regulated entity and is employed by, or is an officer of, another member of its group
SMF9 - Chair Committee	The person with responsibility for chairing, and overseeing the performance of the role of, the governing body of the firm.
SMF10 - Chair of the Risk	The person with responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the risk management systems, policies and procedures of the firm.
SMF11 - Chair of the Audit Committee	The person with responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the internal audit system of the firm.
SMF12 - Chair of the Remuneration Committee	The person with responsibility for chairing, and overseeing the performance of, any committee responsible for the oversight of the design and the implementation of the remuneration policies of a firm.
SMF13 - Chair of the Nominations	If a firm has a nomination committee, this person is the person who chairs that committee.
SMF14 - Senior Independent Director	The person with particular responsibility for leading the assessment of the Chair’s performance.

SMF27 - Partner	A partner in a firm, other than a limited partner in a partnership registered under the Limited Partnership Act 1907
Required Functions	
SMF16 – Compliance Oversight	This is the person responsible for the compliance function in the firm and reporting to the governing body on this.
SMF17 – Money Laundering Reporting Officer	This is the person who has responsibility for overseeing the firm’s compliance with the FCA’s rules on systems and controls against money laundering.
SMF18 - Other Overall Responsibility	This function applies where a senior executive is the most senior person responsible for an area of the firm’s business but they don’t perform any other SMF. Many firms won’t need this function as the people ultimately responsible for everything the business does will already be captured by other SMFs. However, it gives flexibility and recognises the diversity of business structures in different types of firms. This is discussed in more detail below in the section on ‘Overall Responsibility’.
Systems & Control Functions	
SMF2 - Chief Finance Function	The person responsible for managing the financial resources of the firm, including reporting to the governing body on the firm’s financial affairs.
SMF4 - Chief Risk Function	The person with overall responsibility for managing the firm’s risk controls.
SMF5 - Head of Internal Audit	The person responsible for managing the internal audit function of a firm and reporting to the governing body on this.
SMF24 - Chief Operations Function	The most senior person responsible for managing the internal operations (including HR), systems and technology of a firm.

Only those NEDs who hold a Chair role (including Chairs of Committees) or the Senior Independent Director (SID), will be approved by the FCA under the SM&CR.

Non-approved NEDs will, however, still be subject to the Conduct Rules, fit and proper requirements and regulatory reference rules.

The Head of Legal is excluded from the requirement to be approved as a Senior Manager, because so much of the Head of Legal’s work relates to legal advice, the laws of legal privilege apply. The Head of Legal is included in the Certification Regime and subject to the Conduct Rules.

4.2. Enhanced firm Prescribed Responsibilities

Implementing 12 Prescribed Responsibilities that must be given to Senior Managers at Enhanced firms and an additional responsibility for Authorised Fund Managers (AFMs).

Handbook PR Ref	Description
(a)	Performance by the firm of its obligations under the SMR, including implementation and oversight
(b)	Performance by the firm of its obligations under the Certification Regime
(b-1)	Performance by the firm of its obligations in respect of notifications and training of the Conduct Rules.
(d)	Responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime)
(Z)	Responsibility for the firm's compliance with CASS (if applicable)
(c)	Compliance with the rules relating to the firm's Responsibilities Map
(j)	Safeguarding and overseeing the independence and performance of the internal audit function
(k)	Safeguarding and overseeing the independence and performance of the compliance function
(l)	Safeguarding and overseeing the independence and performance of the risk function
(j-3)	If the firm outsources its internal audit function, taking reasonable steps to ensure that every person involved in the performance of the service is independent from the persons who perform external audit, including: <ul style="list-style-type: none"> ◦ supervision and management of the work of outsourced internal auditors ◦ management of potential conflicts of interest between the provision of external audit and internal audit services
(t)	Developing and maintaining the firm's business model
(s)	Managing the firm's internal stress-tests and ensuring the accuracy and timeliness of information provided to the FCA for the purposes of stress-testing
Authorised Fund Managers	
(za)	Responsibility for an AFM's assessments of value, independent director representation and acting in investors' best interests. This PR only applies to AFMs.

The FCA expect that a firm will normally allocate the PRs to an executive, with the exception of responsibilities (j), (k) and (l), which should be allocated to a Senior Manager who is a NED of the firm or a partner who does not have management responsibilities. However, as not all firms have NEDs, this may not always be possible. In this case, the PR must be allocated to another appropriate Senior Manager.

The PRs cannot be allocated to someone performing the Other Overall Responsibility SMF. The exception to this is the PR for CASS compliance.

4.3. Extra requirements for Enhanced firms

There are some extra requirements under the SMR that only Enhanced firms will need to apply.

4.4. Overall Responsibility

The Overall Responsibility requirement means that an Enhanced firm will need to make sure that every activity, business area and management function has a Senior Manager with overall responsibility for it. This is to prevent unclear allocation of responsibilities and issues falling between the cracks. Overall Responsibility means a Senior Manager:

- Has ultimate responsibility for managing or supervising a function;
- Briefs and reports to the governing body about their area of responsibility; and
- Puts matters for decision about their area of responsibility to the governing body.

Having overall responsibility does not mean that the person needs to have day-to-day management control of that function. They need to be the most senior person responsible for managing the area overall and be sufficiently senior and credible, and with sufficient resources and authority, to be able to exercise their management and oversight responsibilities effectively.

The requirements aim is not to overlap with the inherent responsibilities of the person(s) responsible, under the immediate authority of the firm's governing body, for the conduct of the whole of a firm's business. This may be the Chief Executive(s), Executive Director(s) or Partner(s) (as applicable). The intention is to make sure that it is clear who the governing body of a firm has delegated responsibility to for each area of the firm's business. The allocation of responsibilities will differ from one firm to another.

4.5. Activities the Overall Responsibility rule applies to

The scope of the Overall Responsibility rule is the same as the scope of the Conduct Rules. This means it applies to a firm's regulated and unregulated financial services activities. Under the Overall Responsibility rule, firms must allocate responsibility to a Senior Manager for each of the firm's activities, business areas and management functions of the whole firm, including those carried out from a branch overseas. This includes all transactions that take place overseas, in full or in part.

4.6. Dividing or sharing Overall Responsibility

An Overall Responsibility cannot be divided because they are specific to a firm's structure

and the roles of the people running it. You just need to make sure that each Senior Manager's SoR sets out what they're responsible for in a clear and accurate way. Giving Overall Responsibility for the same area or activity to 2 or more Senior Managers is permitted (sharing), where it is appropriate.

4.7. Responsibilities Maps

Enhanced firms must prepare and maintain a Responsibilities Map, which is a single document that sets out the firm's management and governance arrangements. This includes, for example, how the PRs have been allocated, details on who has overall responsibility for the firm's activities, business areas and management functions, details of individuals' and committees' reporting lines, and how any responsibilities are shared or divided between different people.

Responsibilities Maps are designed to give a collective view of the allocation of responsibilities across a firm, and to make

sure that there are not any gaps in the Senior Managers' SoRs. They also help the FCA identify who to speak to about particular issues and who is accountable if something goes wrong.

4.8 . Handover procedures

The FCA require Enhanced firms to 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 to do their job effectively. One way of doing this could be for the predecessor to prepare a handover note. The policy must explain how it complies with this requirement, and maintain adequate records of the steps it has taken.

Section 5

How the Senior Managers Regime applies to Branches

Function Name	Description
EEA Branches	
SMF21 – EEA Branch Senior Manager	This is the person or persons responsible for the management and conduct of the business of the incoming branch.
SMF17 – Money Laundering Reporting Officer	This is the person who has responsibility for overseeing the firm's compliance with the FCA's rules on systems and controls against money laundering.
Third Country Branches	
SMF19 – Head of Third Country Branch	This is the person or persons responsible for the conduct of all activities of the UK branch of a third country firm.
SMF3 – Executive Director	A director of a firm, other than a Non-Executive Director.
SMF16 – Compliance Oversight	This is the person responsible for the compliance function in the firm and reporting to the governing body on this.
SMF17 – Money Laundering Reporting Officer	This is the person who has responsibility for overseeing the firm's compliance with the FCA's rules on systems and controls against money laundering.

5.2. Branch Prescribed Responsibilities

No PRs apply to EEA branches.

For Third Country branches, the FCA are implementing 8 specific responsibilities that must be given to Senior Managers and an additional responsibility for Authorised Fund Managers (AFMs).

Section 6

Certification Regime

Certification covers specific functions that are not Senior Management Functions, but can have a significant impact on customers, the firm and/or market integrity. The FCA will not approve these people, but firms will need to check and confirm (certify) at least once a year that these people are suitable to do their job. If a role meets the definition of a Certification Function, a firm needs to make sure that anyone doing that role has been certified. This means the firm must check and confirm that the person is fit and proper to do the job, and issue them with a certificate. This certification must be done at least once a year, and firms should take into account whether the individual:

- has obtained a qualification
- has undergone, or is undergoing, training
- possesses a level of competence
- Certificates issued by firms should
- state that the authorised person is satisfied that the person is a fit and proper person to perform the Certification Function
- set out the aspects of the firm's business in which the individual will be involved

Some of the staff in scope of the Certification Regime may have been previously approved by the FCA. The FCA will not approve these people any more, as one objective of the Certification Regime is to reinforce that firms, rather than the regulator, are responsible for making sure their staff are fit and proper:

Section 7

Fitness and propriety

7.1. Overview

A key feature of the SM&CR is to reinforce that firms need to take responsibility for their staff being fit and proper to do their jobs. This requirement also applies to NEDs who are not Senior Managers, except in Limited Scope firms.

Once someone is in such a role, firms must assess them on an ongoing basis, and at least once a year.

7.2. The Fit & Proper test

Extended the application of the fit and proper guidance in the FIT part of the Handbook to cover Certification staff, as well as Senior Managers and non-approved NEDs. FIT sets out detailed guidance about the types of things firms to consider as part of assessing a person's fitness and propriety.

This includes:

- honesty, integrity and reputation
- competence and capability, including whether the person satisfies any relevant FCA training and competence requirements
- financial soundness

7.3. Evidence requirements

Firms must collect extra evidence when assessing candidates for Senior Manager positions, Certification Functions or NED roles. Criminal records checks for Senior Managers Firms and candidates for SMFs need to declare if a candidate has a criminal record to the maximum extent allowed by law. Firms must also undertake a criminal records

check as part of each Senior Manager and NEDs application for approval. This means that firms will have to register with the Disclosure and Barring Service (DBS), who run the checks. Smaller firms may need to use an umbrella organisation as an intermediary. Where a candidate has spent a considerable amount of time working or living outside the UK, firms should consider undertaking an equivalent check with the appropriate overseas regulatory body. Criminal records checks won't be mandatory for Certification Functions, but firms may choose to conduct these checks for other staff where they are legally allowed to do so – this is for firms to decide.

7.4. Regulatory references

In line with the recommendations of the Fair and Effective Markets Review (FEMR), firms must request a reference from Senior Manager and Certification Function candidates' past employers – known as regulatory references. This will also apply to NEDs who are not Senior Managers. The requirements build on existing obligations on firms to provide all information relevant to the fit and proper assessment of the hiring firm. The regulatory reference rules require firms to:

- Request a reference from all previous employers in the past 6 years for people applying for Senior Manager, Certification and non-approved NED roles.
- Share information between firms in a standard template.
- Disclose certain information going back 6 years. This includes details of any disciplinary action taken due to breaches of the Conduct Rules and

any findings that the person was not fit and proper.

- Disclose any other information relevant to assessing whether a candidate is fit and proper (e.g., the number of upheld complaints), covering the previous 6 years (unless it relates to serious misconduct, in which case there is no time limit). Firms will need to use their judgement when considering what is relevant, on a case-by-case basis.
- Retain records of disciplinary and fit and proper findings going back 6 years.
- Not enter into arrangements that conflict with their disclosure obligations (e.g. nondisclosure agreements).

Firms will also need to update regulatory references where new, significant information arises. A Senior Manager will be accountable for the firm's regulatory reference obligations, as this is part of PRs. The new referencing requirements won't change when and how a firm decides to take disciplinary action – this is a matter for firms to decide on. Firms will only need to include disciplinary actions that relate to Conduct Rule breaches that occur after the start of the SM&CR. Your firm's compliance with the regulatory referencing requirements will need to be consistent with firms' common law duties and other relevant legislation, such as those relating to the rehabilitation of offenders and spent convictions.

7.5. Summary of fitness and propriety requirements

	New hire	Internal hire (including intra-group hires)	Annual assessment
Senior Manager			
Regulatory reference	Yes	No	No
F&P assessment	Yes	Yes	Yes
FCA approval before commencing role	Yes	Yes	No
Criminal record check	Yes	Yes	No
Certification Function			
Regulatory reference	Yes	No	No
F&P assessment	Yes	Yes	Yes
Certificate for function	Yes	Yes	Yes

7.6. Limited Scope firms and the fit and proper requirements

The application of the fit and proper requirements to Limited Scope firms is slightly different in some areas:

- Sole traders are not required to seek regulatory references or criminal records checks for themselves, even where they also hold a SMF.
- Sole traders with employees should consider whether any of these individuals meet the definition of a Senior Manager or perform one of the Certification Functions. If so, the fit and proper requirements apply.

Non-approved board directors (both executive and non-executive) at Limited Scope firms are not subject to the fit and proper requirements, including regulatory references and criminal records checks.

Section 8

Conduct Rules

8.1. Overview

The Conduct Rules are intended to improve standards of individual behaviour in financial services from the top down and the bottom up. They represent a meaningful change in the standards of conduct we expect from those working in the industry. By applying the Conduct Rules to a broad range of staff we aim to improve individual accountability and awareness of conduct issues across firms.

Things to consider

- Are ancillary staff identified (i.e. those to whom the Conduct Rules don't apply)?
- Do staff understand the Conduct Rules training and notification requirements?

8.2. Two tiers of the Conduct Rules

Two tiers of Conduct Rules apply to all firms. The first is a general set of rules that applies to most employees and directors in a firm. The second tier consists of rules that only apply to Senior Managers. There is also one Senior Manager Rule, SC4, that applies to all non-executive and executive directors.

First Tier – Individual Conduct Rules	
1	You must act with integrity
2	You must act with due care, skill and diligence
3	You must be open and cooperative with the FCA, the PRA and other regulators
4	You must pay due regard to the interests of customers and treat them fairly
5	You must observe proper standards of market conduct
Second Tier – Senior Manager Conduct Rules	
SC1	You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively

SC2	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
SC3	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
SC4	You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice

8.3. Activities the Conduct Rules apply to

The Conduct Rules apply to a firm's regulated and unregulated financial services activities (including any related ancillary activities - i.e. an activity carried on in connection with a regulated activity).

- all Senior Managers;
- all Certified Functions;
- all Non-Executive Directors who are not Senior Managers; and
- all other employees, except ancillary staff listed below

Ancillary Staff defined as:			
Receptionists	Switchboard Operators	Post room Staff	Reprographics/Print room Staff
Property/Facilities Management	Events Management	Security Guards	Invoice Processing
Audio-Visual Technicians	Vending Machine Staff	Medical Staff	Archive Records Management
Drivers	Corporate Social Responsibility Staff	Data Controllers and Processors under the Data Protection Act	Personal Assistants and Secretaries
Catering Staff	Information Technology Support (i.e. Helpdesk)	Cleaners	Human Resources Administrators /Processors

8.5. Territoriality and overseas employees

For UK firms, the Conduct Rules apply in two situations. They apply to activities carried out from the UK. They also apply to activities carried out from outside the UK, but only if the activity involves dealing (i.e. having contact with) with UK clients. This is called the general territorial limitation.

The general territorial limitation for a UK branch of an overseas firm is different. The Conduct Rules only apply to conduct to the extent that it is performed by a person from the UK branch. The Conduct Rules apply on a worldwide basis to certain senior individuals, including:

- Material Risk Takers under the Remuneration Codes
- SMF holders
- non-executive directors and executive directors

The Conduct Rules do not apply to staff of an overseas firm without a UK branch even if the individual deals with a UK customer.

8.6. Training requirements

Firms are required to train relevant staff on how the Conduct Rules apply to their role and a Senior Manager is required to be allocated the PR for this.

Senior Managers and Certification Staff will need to have been trained, and abide by the Conduct Rules from the start of the new regime. Firms will have 12 months to put in place processes to comply with the training and reporting requirements, and train their other staff on the Conduct Rules.

8.7. Conduct Rule breach reporting

Firms are required to notify the FCA when disciplinary action has been taken against a person for a Conduct Rules breach.

Notification of disciplinary action is only required if that action was because of Conduct Rule breaches. The timing for Conduct Rule breaches is:

- For Senior Managers, the FCA require that firms notify us within seven business days of concluding disciplinary action
- For other individuals, the FCA require the notification to be made every year on the electronic reporting system, GABRIEL. Most firms will report in October, for the reporting year 1 September to 31 August, with a due date of 2 months later. Limited Permission Consumer Credit firms will report in line with their reporting year, alongside their annual return

A firm needs to make an annual notification about Conduct Rules even if there have not been any breaches. This is to make sure firms correctly monitor and identify Conduct Rule breaches.

Disciplinary action means:

- issuing of a formal written warning
- suspension or dismissal of a person, or
- reduction or recovery of remuneration (clawback)

The new notification requirement does not change or remove firms' obligations to report concerns about an individual's conduct under existing rules and principles.

Section 9

Start of one year period to transition from Core to Enhanced

9.1. Moving from the Core to Enhanced regime

The FCA want to give firms stability and to make sure they are not moving between the Core and Enhanced regimes regularly if they operate near the Enhanced criteria.

After the start of the SM&CR, if a firm is in the Core tier but finds that it meets one of the Enhanced criteria set out below, the firm will have one year from the date it meets the criteria to comply with the Enhanced requirements. The one year periods start from different points depending on the criteria that apply.

The following table below summarises these:

9.2. Start of one year period to transition from Core to Enhanced

Definitional criteria	
A firm that is a Significant IFPRU firm	The date that the firm meets the definition of a Significant IFPRU firm
A firm that is a CASS Large firm	The date that the firm notifies the FCA that it meets the criteria to become a CASS Large firm
Criteria calculated on a rolling average	
Firms with Assets Under Management of £50 billion or more as a 3 year rolling average	The submission date (return due date) of the first return that takes the firm over a 3 year rolling average of £50bn assets under management
Firms with current total intermediary regulated business revenue of £35 million or more per annum calculated as a 3 year rolling average ⁷	The submission date (return due date) of the first return that takes the firm over a 3 year rolling average of £35m intermediary revenue
Firms with annual revenue generated by regulated consumer credit lending of £100m or more calculated as a 3 year rolling average.	The submission date (return due date) of the first return that takes the firm over a 3 year rolling average of £100m consumer credit lending revenue
Criteria calculated as a point in time	

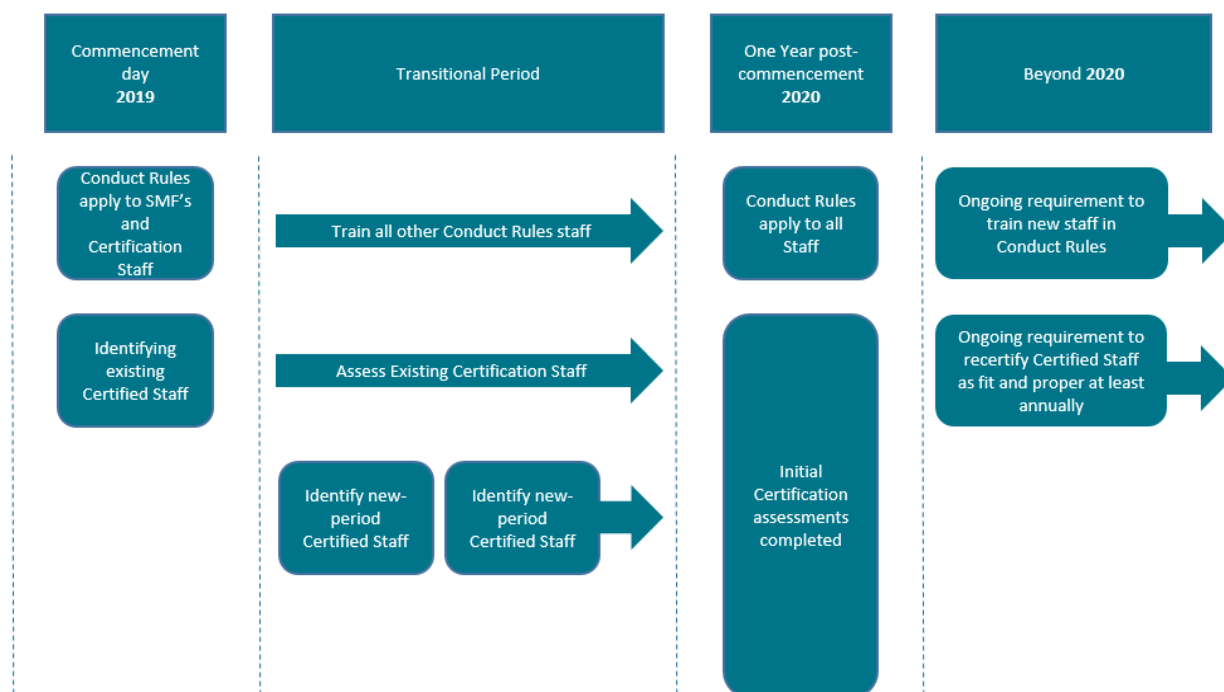
Mortgage lenders and administrators (that are not banks) with 10,000 or more regulated mortgages outstanding at the latest reporting date

The submission date (return due date) of the first MLAR that shows the firm with 10,000 or more regulated mortgages.

Section 10

Overview

10.1. Timeline



10.2. Mapping Functions (CFs to SMFs)

CF1 - Director

CF2 - Non-Executive Director

- SMF2 - Chief Finance Officer
- SMF3 - Executive Director
- SMF4 - Chief Risk Officer
- SMF5 - Head of Internal Audit
- SMF7 - Group Entity Senior Manager
- SMF24 - Chief Operations
- SMF9 - Chair
- SMF10 - Chair of the Risk Committee
- SMF11 - Chair of the Audit Committee
- SMF12 - Chair of the Remuneration Committee
- SMF13 - Chair of the Nomination Committee

CF3 – Chief Executive	SMF14 – Senior Independent Director
	SMF7 – Group Entity Senior Manager
	SMF1 – Chief Executive
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF4 – Partner	SMF27 – Partner
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF5 – Director of Unincorporated Association	SMF3 – Executive Director
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF6 – Small Friendly Society Function	SMF3 – Executive Director
	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF10 – Compliance Oversight	SMF16 – Compliance Oversight
CF10a – CASS Ops Oversight Function	SMF18 – Other Overall Responsibility
CF11 – Money Laundering Rep Officer	SMF17 – Money Laundering Reporting Officer
CF28 – Systems and Controls Function	SMF2 – Chief Finance Officer
	SMF4 – Chief Risk Officer
	SMF5 – Head of Internal Audit
CF29 – Significant Management Function	SMF18 – Other Overall Responsibility
	SMF24 – Chief Operations

Glossary

The Senior Managers and Certification Regime

Ancillary Staff - Employees who are not covered by the Conduct Rules, such as cleaners, receptionists, catering staff and security staff.

Certification Function - A function performed by employees, who could pose a risk of significant harm to the firm or its customers.

Certification Regime - The part of the regime that covers Certification Functions.

Criminal Records Checks - A requirement on firms to conduct criminal records checks for Senior Managers and Non-Executive Directors (where a fitness requirement applies) as part of checking that they are fit and proper.

Duty of Responsibility - Every Senior Manager will have a Duty of Responsibility as a result of FSMA. This means that if a firm breaches one of the requirements, the Senior Manager responsible for that area could be held accountable if they did not take reasonable steps to prevent or stop the breach.

Employee - personally provides, or is under an obligation personally to provide, services to A under an arrangement made between A and the person providing the services or another person, and is subject to supervision, direction or control by A as to the manner in which those services are provided.

Fit and Proper Requirements - Firms must make sure all Senior Managers and people performing Certification Functions (ie people under the Certification Regime) are fit and proper to perform their role. This must be done on appointment and at least once a year.

Handover Procedures - A firm must take all reasonable steps to make sure a new Senior Manager has all the information and materials they need to do their job.

Individual Conduct Rules - These are basic standards of behaviour that apply to all individuals performing financial services activities in firms. Firms need to train their staff on the Conduct Rules and how they apply to them. Firms will need to report breaches of Conduct Rules resulting in disciplinary action to us every year, and within 7 days if the person is a Senior Manager.

Other Overall Responsibility Function - An SMF that applies where a senior executive is the most senior person responsible for an area of the firm's business but they don't perform any other SMF.

Overall Responsibility - A requirement for every area, activity and management function of the firm to have a Senior Manager with overall responsibility for it.

Prescribed Responsibilities (PRs) - FCA-defined responsibilities that must be allocated to an appropriate Snr Mngr.

Regulatory References - Information that firms need to share with each other when an employee or director moves from one firm to another (for candidates of Senior Managers Functions, Non-Executive Directors and Certification Functions).

Responsibilities Maps - A document setting out a firm's governance and management arrangements, and how responsibilities are allocated to individuals within the firm.

Senior Management Functions (SMFs) - The roles where the people doing them need to be approved by the FCA. These are defined in the Handbook.

Senior Manager Conduct Rules (SMR) - These are additional Conduct Rules that apply to all Senior Managers. Firms need to train Senior Managers so they understand what the Conduct Rules are and how they apply to them. Firms will need to report breaches of all individual and Senior Manager Conduct Rules by Senior Managers resulting in disciplinary action to us within 7 days.

Senior Managers - The people who perform a SMF. These people need FCA approval to do their jobs.

Senior Managers Regime - The part of the regime for Senior Managers. This includes SMF, SoRs, Duty of Responsibility, Fit and Proper, PRs, Regulatory References and criminal records checks. For Enhanced Firms, it also includes Responsibilities Maps, Handover Procedures and Overall Responsibility.

Statement of Responsibilities (SoRs) - A document that every Senior Manager needs to have that sets out what they are responsible and accountable for. This needs to be submitted to us when a Senior Manager is being approved and when there is a significant change, and be kept up to date

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