

# Client Update

## UK Financial Conduct Authority Publishes Details on Extension of Senior Managers and Certification Regime

On 13 December 2017, the UK Financial Conduct Authority (“FCA”) issued three new consultation papers<sup>1</sup> providing further details on its extension of the Senior Managers and Certification Regime (“SMCR”) to almost all firms regulated by the FCA. Some of the FCA’s key proposals are summarised below. We have previously published a client update outlining the main features of the extended SMCR.<sup>2</sup>

### IMPLEMENTATION DATE

The FCA has not yet decided the date by which firms will need to have implemented the SMCR, but it has now indicated that the new rules may apply to insurers in late 2018 and to other firms in mid to late 2019. We had formerly expected the extended SMCR to apply to all firms by the end of 2018.

### TRANSITIONING FCA APPROVED INDIVIDUALS TO BECOME SENIOR MANAGERS

Helpfully, the FCA will generally allow individuals approved under the current Approved Persons Regime automatically to become senior managers under the SMCR, so long as there is a corresponding senior management function (“SMF”), without the need to apply for re-approval.

The table below shows how current FCA controlled functions for approved individuals will correspond to SMFs, for all firms except the approximately 350 largest and most complex UK-based firms that will be subject to the ‘enhanced regime’ version of the SMCR.

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<sup>1</sup> ‘Individual accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime’, consultation paper CP17/40 (December 2017); ‘Individual accountability: Transitioning insurers and individuals to the Senior Managers & Certification Regime’, consultation paper CP17/41 (December 2017); ‘The Duty of Responsibility for insurers and FCA solo-regulated firms’, consultation paper CP17/42 (December 2017).

<sup>2</sup> Please see our July 2017 client update on the extended SMCR:  
<https://www.debevoise.com/insights/publications/2017/07/uk-financial-conduct-authority>

<i>Current controlled function</i>	<i>Corresponding Senior Management Function(s)</i>
CF1 – Director	SMF3 – Executive Director
CF2 – Non-Executive Director	SMF9 – Chair (otherwise no longer needs to be FCA approved)
CF3 – Chief Executive	SMF1 – Chief Executive SMF19 – Head of Third Country Branch
CF4 – Partner	SMF27 – Partner SMF3 – Executive Director (for UK branches of overseas firms)
CF5 – Director of Unincorporated Association	SMF3 – Executive Director
CF6 – Small Friendly Society Function	SMF3 – Executive Director
CF10 – Compliance Oversight	SMF29 – Limited Scope
CF11- Money Laundering Reporting Officer	SMF17 – Money Laundering Reporting Officer
CF29 – Significant Management Function	SMF21 – EEA Branch Senior Management Function (otherwise no longer needs to be FCA approved)

‘Enhanced regime’ firms will have to submit to the FCA a ‘Form K’ detailing all of their approved persons to be converted to senior managers, a ‘Statement of Responsibilities’ for each senior manager, and a ‘Responsibilities Map’ describing their management and governance arrangements.

### **TRANSITIONING FCA APPROVED INDIVIDUALS TO BECOME CERTIFIED PERSONS**

A number of approved individuals will no longer require FCA approval under the SMCR, but will instead become certified persons. These include individuals who hold the following controlled functions: CF10a (CASS Oversight Function), CF28 (Systems and Controls Function) and CF30 (Customer Function). Firms will need to have identified their certified individuals by the start of the SMCR, but they will have 12 months to assess whether their certified staff are fit and proper to perform their roles and to complete the associated documentation.

### **DUTY OF RESPONSIBILITY**

The FCA has confirmed that the ‘Duty of Responsibility’ currently applying to banks, building societies and credit unions (which have been subject to the SMCR since March 2016) will be similarly extended to all FCA-regulated firms.

In brief, the Duty of Responsibility enables the FCA to take action against a senior manager whose firm breached an FCA rule, where the senior manager was responsible for the firm’s

activities in the relevant area and failed to take reasonable steps to avoid the contravention occurring or continuing. The FCA has already issued detailed guidance regarding the Duty of Responsibility in its Decision Procedure and Penalties Manual.

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Please do not hesitate to contact us with any questions.

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