

PRA and FCA Publish Discussion Paper on the Review of the Senior Managers and Certification Regime

4 April 2023

On 30 March, the UK Prudential Regulation Authority and the Financial Conduct Authority (the “Regulators”) published a joint [discussion paper](#) (the “Discussion Paper”) on the review of the Senior Managers and Certification Regime (the “SM&CR” and the “Review”). The Discussion Paper invites responses by 1 June 2023. The Review forms part of the cross-departmental initiative launched by the Edinburgh Reforms, and HM Treasury published a [call for evidence](#) (the “Call for Evidence”) regarding the SM&CR on the same day. This is the first full review of the SM&CR since its launch in 2016.

The SM&CR is a regulatory regime that sets standards for the fitness and propriety of senior decision-makers and the reasonableness of their actions as well as the conduct of all financial services staff. It applies across the board to regulated financial services firms and is central to the Regulators’ approach driven by individual responsibility. Its scope is likely to expand; the Financial Services and Markets Bill (the “Bill”) seeks to extend the SM&CR’s reach to, among others, credit rating agencies, investment exchanges and central securities depositories.

The Review provides a forum for the views of firms and other stakeholders on the SM&CR. Its objective is to “*identify ways to improve the regime to help it work better for firms and regulators, while preserving its underlying aims.*” The Review presents an opportunity for the Regulators and the UK government to address the criticisms summarised in the Call for Evidence. These include, among others:

- Delays in authorisation: The Discussion Paper and the Call for Evidence acknowledge that the delays in processing applications for senior managers have led to planning problems for firms. Typically, approval of a new senior manager takes between 6–12 weeks but sometimes longer than the statutory deadline of three months. In response, the Regulators have sought to improve their processes and resources to reduce the backlog. The Discussion Paper nevertheless states that the Regulators “*remain open to suggestions*” regarding “*further changes and improvements*” to help reduce the waiting time for authorisations. Firms are

invited to submit their views on the efficacy of the measures taken by the Regulators thus far and to recommend any further steps.

- **Compliance requirements for international firms:** International firms are often subject to multiple regulatory regimes with varying requirements. As summarised in the [Appendix](#) published by the Regulators, the UK's regulatory regime adopts a different approach from other key jurisdictions such as the U.S. and Hong Kong. For instance, the U.S. has opted not to have a separate accountability regime for individuals. Instead, it relies on various pre-existing regulatory regimes that apply to U.S.-domiciled financial institutions. As an example, U.S. insurance regulators rely on a notification and accompanying filing of biographical information only after the appointment by an insurance company of a new director or executive officer in the ordinary course of business. Certain U.S. insurance regulators also require directors and executive officers to submit fingerprints and a commitment from the insurer requiring it to remove any director or executive officer that is found by such regulator to be untrustworthy. The Call for Evidence notes that regulation should “*not create unnecessary or disproportionate compliance burdens*” that might prejudice the UK's continuing role as an international hub for financial services. The new secondary regulatory objective of competitiveness and growth proposed under the Bill lends this greater urgency. The Review invites views on any actions in relation to SM&CR that can bolster competition and international competitiveness.
- **Differing standards for firms:** Given the breadth of the SM&CR's scope, the Regulators have sought to tailor its application in ways that promote proportionality. Nevertheless, concerns have been raised regarding the discrepancies in the amount of scrutiny faced by some firms but not others under the SM&CR. The Discussion Paper notes that some firms support the simplification of the SM&CR in relation to “*minimum requirements, thresholds or processes for approving new individuals.*” The questions posed by the Discussion Paper includes whether the SM&CR has been applied proportionately.

The Review will inform the debate as to whether there is a case for reforming the SM&CR, including through legislative change. It presents an opportunity to reduce waiting times for the authorisation of senior managers, to promote greater regulatory alignment with other key regulatory regimes (particularly in the context of the UK's post-Brexit changes to the financial services sectors) and to tailor the SM&CR to the size and complexity of individual firms.

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