



Front of mind

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SMCR & Covid-19

The UK Financial Conduct Authority recently published Policy Statement 20/12, which sets out the final rules on the extension of the Senior Managers and Certification Regime implementation deadlines for the certification regime and conduct rules. This follows the recent extension of the deadline for solo-regulated firms to have undertaken the first assessment of the fitness and propriety of its certified staff. Firms will now have until 31 March 2021 to implement all outstanding elements of the regime.

The Senior Managers and Certification Regime (“SMCR”) was originally extended to solo-regulated firms with a view to achieve full implementation by 9 December 2020. However, the onset of the coronavirus pandemic led to widespread business disruption, and managerial attention needing to divert attention toward more pressing matters. In response to this, the FCA has taken a series of steps to give firms flexibility to manage their Covid-19 response plans. The FCA determined that a 16-week extension would sufficiently reduce the burden on firms while ensuring consumer protections and regulatory standards are nevertheless upheld.

The FCA understands the amount of work required for firms to properly implement the certification regime and to train staff in the conduct rules. Extra time should ensure that the SMCR is not compromised by the pandemic.

Confirmed Extensions

The deadlines for firms to meet the following requirements have been officially extended from 9 December 2020 to 31 March 2021:

- The date the conduct rules come into force, for staff who are not senior managers, certification staff, or board directors
- The date by which relevant employees must have received training on the conduct rules

- The deadline for submission of information about directory persons to the Financial Services Register

The FCA has also confirmed that it will update references in the FCA rules for assessing certified persons as fit and proper following a previous agreement with HM Treasury to extend this deadline.



Conduct Rules and Certification Regime

To meet conduct rules requirements, firms will need to deliver high-quality training to staff. The 16-week extension is intended to help firms move existing training efforts online if they have not done so already, as many staff continue to work remotely. The FCA maintains that a delay will reduce the risk of consumer harm as individuals should now be able to receive proper training in how the conduct rules apply to them. We are still waiting on additional guidance from the FCA setting out how firms should deliver effective training.

The policy statement also sets out amended wording to the certification transitional period, which is now in force. The certification transitional period will end on 31 March 2021, and firms will be able to issue certificates in this period. Certificates will be valid for a 12-month period from the date of issue, even if certificates were issued during the certification transitional period.

Directory Persons Data

Solo-regulated firms have until 31 March 2021 to submit directory persons data to the Financial Services Register. However, the FCA will begin to incrementally display data from 14 December 2020 and firms are encouraged to provide information in advance of 31 March 2021 if able to do so. Directory persons data includes information about all certified staff, directors who are not performing senior manager functions, and other individuals who are sole traders or appointed representatives.

All Ready by 31 March 2021?

The FCA is determined to complete the SMCR implementation process for solo-regulated firms by 31 March 2021 and is working on the assumption that firms have found ways to adapt and continue during periods of restrictions, enabling firms to comply with SMCR requirements regardless of the circumstances.

The FCA has recently warned financial services firms that it expects them to have updated their policies, refreshed training, and put in place rigorous oversight for certain staff working from home. This will include certified staff, especially when they are in trading roles and making use of confidential information.

We are supporting our clients ensure that they are fully compliant with the SMCR requirements as well as providing training for senior managers, certified individuals and firms wider employees in order that firms meet its conduct requirements. Training is mandatory and must be delivered before 31 March 2021.

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