



# **SM&CR**

## READINESS SOLUTION



**Compliance Matters**  
UK LIMITED

A black and white photograph of a man in a white shirt and glasses, pointing towards a screen in a meeting room. He is holding a pen in his left hand. In the foreground, the back of a person's head and shoulders are visible, looking towards the man. The room has a modern feel with large windows in the background.

## INTRODUCTION

The extension of the Senior Managers and Certification Regime (SM&CR) came into force on 9th December 2019. Senior Managers and Certification Staff had to be trained on the new regime and conduct rules by 9th December.

Firms now have until 9th December 2020 to complete initial certification of the identified population and train all other staff in respect of the Conduct Rules.

Senior Managers will have, with best endeavours, put the correct infrastructure in place for themselves, identified their Certification Staff and familiarised themselves with the detail of the Code of Conduct rules (COCON).

Firms will now need to train all their staff (with the exception of some ancillary staff) in respect of COCON before 9th December 2020 and also put in place the process and procedure for both initial certification and annual certification for their Certification Staff.

This solution provides firms with a gap analysis that would give them comfort that their efforts in 2019 have hit the mark and support for the training and certification activities required in 2020.

Your Professional  
**DEVELOPMENT**



SM&CR is a firmwide initiative, it should not sit with Compliance but with the Senior Management Team collectively. This solution takes SM&CR away from being perceived as a compliance owned project. Some elements will need to sit with HR, others with line management itself, the solution will be seen as a project with stakeholders across the whole business.

The FCA will expect firms to have reviewed the experience of the Banks and other large firms who have been through the SM&CR journey already. They will expect firms to have embraced the spirit of SM&CR and have embedded it into the culture of the firm. FCA Supervisory activity will focus on how firms have embedded SM&CR and how robust the certification process is.

Firms will be asked to demonstrate how they have satisfied themselves that Certification Staff are fit and proper for certification when the firm is asked to 'show its homework' during FCA supervisory activity. Any public censure resulting from poor implementation of SM&CR will cause clients and potential clients to question the quality of the firm because media headlines will use sensationalist language leaving the detail in the body of any article that may or may not be read.

Such reputational risk can be avoided and successful implementation of SM&CR can be used as a marketing tool.



## Initial Certification

Having identified the employees who are to be Certified and then trained them in respect of the conduct rules, the firm is required to certify staff by 20th December 2020 and annually thereafter. Depending on the number of certification staff, the firm may want to phase the process across the year.

## Contracts of Employment

All contracts of employment should be reviewed to include a clause regarding the inability of the firm to grant or renew certification and the disciplinary implications should this be the case.

Senior Management will need to work with HR to consider the implications of the firm not being able to certify or re-certify staff. There may be various reasons for the firm not granting Certification some more serious than others and how these may be addressed. Options could include withholding of variable pay through to termination.

## The Appraisal System

Certification could be linked to the appraisal system and performance based on achieving KPIs or the appraisal changed to meet the requirements of certification.

## Certification

Certification is reliant on the individual being able to demonstrate fitness and propriety to carry out the Certified function. There are three elements:

1. Honesty, integrity and reputation;
2. Competence and capability
3. Financial soundness

In addition, the firm should take into account whether the individual has:

- obtained a qualification during the year;
- undergone, or is undergoing, training; and
- the required level of competence.

## "Better Safe Than Sorry"

Firms will need to consider how various internal stakeholders will work together to implement the Certification element of the regime, namely, HR, Compliance and Line Management within the business.

We anticipate that for some organisations, adhering to these new requirements will not be a challenge at all; and broadly speaking the more in-house compliance and regulation expertise the firm has the easier it will find the transition to the new regime.

However, even for very well-resourced firms, it is worth considering the potential consequences of a breach of conduct rules; such as:

- Suspension or dismissal
- Loss of variable remuneration (if applicable)
- Notification to the FCA within 7 days of concluding an internal investigation if that breach was by a Senior Manager
- Inclusion on the annual FCA return for all other staff



Given the severity of the consequences of a breach, we would recommend that even a firm that is confident it has everything duly prepared may derive value in getting a second, external opinion; just in case.

Furthermore, the very act of seeking an external second opinion may in and of itself be a useful piece of evidence to show the authenticity with which the firm and its Senior Managers have sought to be compliant.

For organisations that do not have extensive internal resource and may not be feeling confident that all bases are covered, we highly recommend our SM&CR Readiness Solution, because it will:

- Identify any gaps in your preparation.
- Ensure your certification process is robust.
- Review your training and competence arrangements.
- Help confirm your record keeping will stand up to FCA scrutiny.

At the heart of SM&CR is personal responsibly and accountability, this has to come from the top of the organisation and percolate through. We can help with training and coaching to ensure the right message is received by your business.

## How would we deliver the solution?

Implementation would initially be a series of meetings with business heads and senior management to understand the activity the firm had undertaken to date. It would involve meeting with the Head of HR and the T&C Team to consolidate existing MI about the Certification individuals, discuss the certification process and procedure, and, most importantly, where the consolidated MI would sit. There may be the need for individual meetings with certification staff or small groups.

We would deliver a report regarding the observed gaps in the implementation (if any). It would propose how certification could be completed depending upon the number of certification staff and the diversity of roles.

COCON training could either be delivered electronically through a Learning Management System or a series of face to face workshops - depending on the preference of the firm and the availability of an LMS.





## And finally...

SM&CR is pivotal to the way the FCA will supervise the industry; it builds on TCF and Conduct Risk because it puts individual responsibility and accountability with a firm's senior management and the managers of individual business units, percolating down to employees via the Conduct Rules.

This solution will give “an additional pair of eyes and ears” to give the firm comfort that what they have in place is fit for purpose, support if it isn't and support with the training and embedding of the regime so that it is not perceived by the business as yet another initiative done to them by Compliance.

## How can we help?

If you need someone to assess your processes and procedures for certification or want some training for your staff regarding the conduct rules, please contact us: 07768 422 213 or [ian@compliancematters.co.uk](mailto:ian@compliancematters.co.uk)



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