



Individual accountability: Transitioning FCA firms and individuals to the SM & CR

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Full Document Title:

CP17/40: Individual accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime

Sector Affected:

The proposals in this consultation relate to all firms authorised by the FCA under FSMA, except for:

- Insurers; the FCA is consulting separately on the proposals for moving insurers to the Senior Managers and Certification Regime
- Deposit takers; the Senior Managers and Certification Regime is already in place for these firms
- The proposals in this consultation do not extend to approved persons and individuals at Appointed Representatives of affected firms

Background:

The FCA is consulting on how FSMA authorised firms and individuals will move to the Senior Managers and Certification Regime.

- The Senior Managers and Certification Regime aims to make individuals more accountable for their conduct and competence. Earlier this year, the FCA consulted on how the regime will apply to firms and individuals. This consultation paper focuses on how the FCA will move firms and their senior staff over to the new regime
- This process is called ‘conversion’, and the aim is to make it simple, clear and proportionate. For most firms, the FCA is planning to automatically convert Approved Persons Regime (APR) approvals to Senior Management Functions. This means most firms won’t need to submit anything to the FCA to make this happen
- The FCA has proposed different approaches to moving firms to the new regime based on whether a firm is categorised as limited scope, core or enhanced. We recommend checking your firm category before reading the consultation paper. You can do this by using the firm checker tool on page 3 of the FCA consultation paper

Summary:

The FCA proposes:

- To automatically convert most of the approved persons at Core and Limited Scope firms into the corresponding new senior management functions
- That Enhanced Firms need to submit a conversion notification (Form K) and accompanying documents
- In chapter 6 the FCA sets out its proposed changes to regulatory forms. These reflect the move to the SM&CR, while keeping the APR for Appointed Representatives, and some consequential changes, including applying the late returns fee to late or non-submitters of REP008 (the annual report of Conduct Rules breaches)

In chapter 7 of CP17/40 the FCA sets out certain consequential amendments to its Handbook.

These include:

- Changes necessary to keep the APR for Appointed Representatives
- Changes to SUP 10C, to reflect the extension of the SM&CR to FCA solo-regulated firms
- Some changes to clarify how the regime applies to different types of firms



- Consequential changes to the Enforcement Guide and the Decision Procedure and Penalties Manual
- Additional guidance on the Chief Operations senior management function
- Changes to the Glossary
- The FCA does not propose any requirements for benchmark administrators, these will be addressed separately
- In chapter 8 of CP17/40 the FCA sets out certain proposals for those firms already subject to the SM&CR (banks, building societies, credit unions and PRA-designated investment firms). In particular, banks will need to note the FCA's proposal to apply the late returns fee to non-submitters of REP008
- The FCA will aim to publish a summary of responses and a policy statement in 2018. The new rules will apply when the HM Treasury sets the dates. The FCA has assumed that the rules for solo-regulated firms will apply in mid-to-late 2019

Impact level of proposed changes:

- **Limited Scope and Core firms** – The FCA think its proposed approach to moving Limited Scope and Core firms from APR to the SM&CR incurs costs of minimal significance. This is because firms will not have to contact the FCA directly to convert individuals. If exceptions are involved, this might be different -see chapters 4 and 5 of the FCA consultation paper
- If firms do need to submit conversion documentation, the FCA does not believe that the associated costs over and above those incurred for the main proposals are likely to be material
- **Enhanced firms** - Any costs incurred by Enhanced firms will be for completing and submitting the documents required under the proposals in CP17/25. These were explained in the CBA that accompanied that CP. Additional costs over and above those previously assessed (captured in the one-off costs in the CBA) are also likely to be of minimal significance

Recommended actions at this time:

Firms may wish to review the consultation paper and make any appropriate responses to the FCA.

More information:

To read the full FCA Consultation Paper please follow this link: <https://www.fca.org.uk/publication/consultation/cp17-40.pdf>

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