

Extension of the Senior Manager and Certificate Regime Implementation Periods for Solo-Regulated Firms to March 2021

July 1, 2020

On 30 June 2020, the Financial Conduct Authority (FCA) **announced** proposals designed to provide breathing room to solo-regulated firms (meaning those governed solely by the FCA) in respect of the implementation of certain aspects of the Senior Managers and Certification Regime (SMCR). The proposals are intended to soften the blow for firms affected by the coronavirus pandemic and provide them with additional time to make the changes they need under the SMCR. The FCA has, however, outlined its expectation that, where possible, firms should continue to meet the SMCR's milestones before the proposed new deadlines.

The proposals provide for the extension of several deadlines for solo-regulated firms from 9 December 2020 to 31 March 2021, in respect of:

- the date at which the conduct rules come into force;
- the deadline for the submission of information about certified and assessed staff to the FCA's Financial Services Register; and
- the deadline for conducting fitness and proprietary assessments for certified staff (this has already been agreed by Her Majesty's (HM) Treasury—see below).

The FCA has outlined that it will consult on the changes in parallel to the parliamentary process that will implement the changes in order that it may finalise its policy as soon as possible and minimise uncertainty for regulated firms.

We outline below the key features of the FCA's proposals and expectations for solo-regulated firms.

What Are the Proposals?

The certification regime under the SMCR is designed to apply to staff who are not senior managers but whose roles mean that it is possible for them to cause significant harm to the firm, its clients or the market more generally.

Under the certification regime, firms are required to certify that individuals who are certified staff are fit and proper to carry out their certification function upon hiring them

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and annually thereafter. Under the SMCR, solo-regulated firms were required to conduct the first fitness and propriety assessments by 9 December 2020.

On 30 June 2020, the FCA announced that HM Treasury had agreed to delay the deadline so that solo-regulated firms would be required to undertake the first fitness and propriety assessments by 31 March 2021.

In the same announcement, the FCA confirmed that it intends to consult on extensions to a number of deadlines under the SMCR applicable to solo-regulated firms, from 9 December 2020 to 31 March 2021, as outlined in points (i) to (iii) above. The FCA's announcement also provided specific comments in relation to each of the points and we have summarised these below.

Implementation of Conduct Rules

Broadly, the FCA's conduct rules establish the minimum standards of individual behaviour in firms and apply to all staff other than those carrying on ancillary roles that are not specific to financial services, i.e., cleaners, receptionists, catering staff, etc. The FCA noted that Senior Managers must ensure that training in respect of the conduct rules is effective such that all staff are aware of the nature of the rules and the extent to which it applies to their positions.

The FCA emphasised that a training programme in relation to the conduct rules will necessitate due planning, time and effort in order to be delivered effectively. To better assist firms in this regard, the FCA has indicated it will produce further communications about its expectations in due course.

Financial Services Register

The FCA confirmed that details regarding certified employees of solo-regulated firms will be published on the FCA's [Financial Services Register](#) from 9 December 2020 and, to the extent such information is available prior to 31 March 2021, firms are encouraged to provide this to the FCA.

Fitness and Propriety Assessments of Certified Staff

The FCA has highlighted that where firms are able to certify staff earlier than the proposed extended deadline of 31 March 2021, they should do so. More importantly, the FCA advises firms not to wait to remove staff who are not fit and proper from certified roles. The FCA's expectation is that firms will continue to monitor any changes that may affect the fitness and propriety of its staff.

Unusually, the FCA has taken the step of consulting on the proposed changes in parallel to the parliamentary process that will implement the proposals. The FCA's intention in this regard is to ensure that there is minimal disruption to regulated firms and any changes are put in place as soon as possible.¹

We continue to monitor regulatory developments in this area.

¹ Note that the FCA's announcement reiterated the position that the certification regime and reporting requirements for submission of information about certified and assessed staff to the FCA's Financial Services Register do not apply to firms which only act as benchmark administrators. However, the FCA did clarify that benchmark administrator firms should ensure that all non-Senior Manager staff are adequately trained in the conduct rules by December 2021; the FCA indicated that it is not considering an extension to this deadline.