

# *Senior Managers & Certification Regime*



A practical guide to prepare firms for the new regime

## *Issue 1*

The purpose of this document is to help you understand your responsibilities at the time of implementation, and to offer some practical guidance in the lead up to the new regime.

## Introduction

The Senior Managers & Certification Regime (SM&CR) has been designed to improve public confidence in financial services and build trust with consumers.

### It seeks to:

- develop a culture of accountability at all levels;
- ensure that firms have the right people in the right roles, and;
- make it easier for the regulator to work out who is responsible if something goes wrong.

The regime already applies to banks, building societies, credit unions and providers, however, it is being extended to all authorised firms from 9th December 2019.

**The most important aspect of SM&CR is to understand that this is not designed to change the structure of a firm or require it to appoint further staff to fill new roles.**

From the very outset, the Financial Conduct Authority reminds firms that “the tone should be set from the top”. In other words, the behaviour of the most senior people within the business is likely to directly influence the culture of the organisation and therefore must meet expectations.

However, SM&CR does not just affect those at the top, but extends to staff at all levels. It introduces the concept that they should be individually accountable for their actions, whilst at the same time, expected to work collectively to achieve the outcomes required.

**Senior managers should be the most senior people in a firm. In most cases, we expect this to be the principals of the business.**

SM&CR should not represent a significant change for firms. You will notice that a lot of the concepts and phrases sound familiar. This is because it builds upon the existing foundations of the Approved Persons Regime. It is designed to remind and re-inforce fundamental compliance themes.

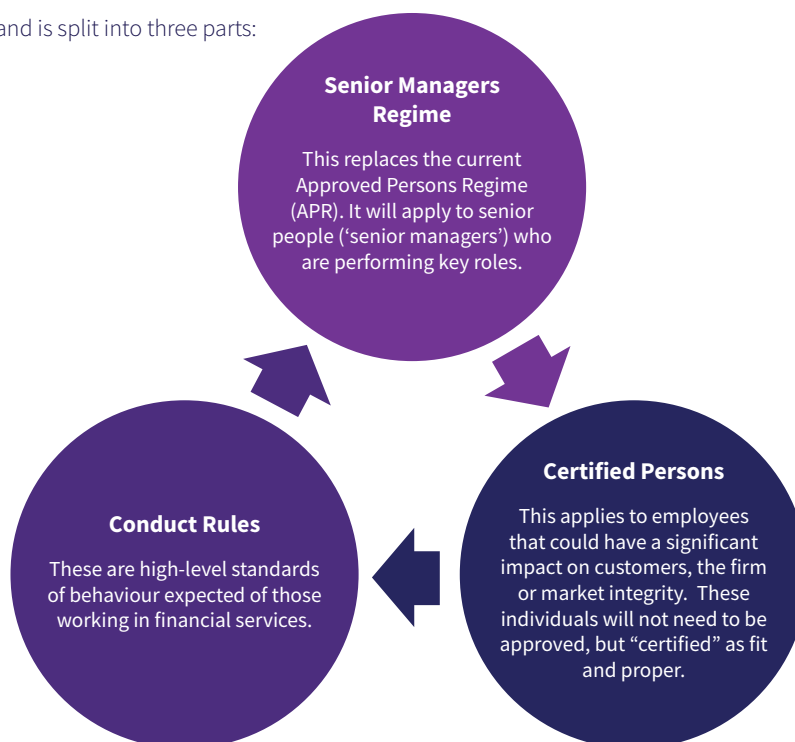
The regime creates a more detailed structure from which firms can improve upon their existing compliance processes. It should help staff understand and demonstrate where their responsibilities lie, and give them the confidence to take personal responsibility and speak up as and when required.

The ultimate goal is to build confidence in the financial services industry and raise standards within firms at all levels.

**We believe firms will be well placed to deal with the challenges of this new regime.**

The regime comes into effect on

**9 December 2019** and is split into three parts:

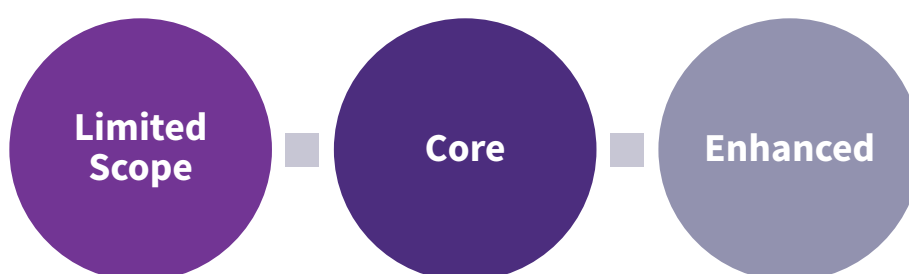


This guide is to assist firms with the implementation of the Senior Management Regime. We will issue separate guidance for individuals on the role of Senior Managers and Certified Persons, including the Conduct Rules.

## Firm Types

The SM&CR is designed to be proportionate. The FCA has created three different categories of “firm type” to accommodate different sizes of firms and business models.

**Firms will be categorised as either:**



The information provided by The SimplyBiz Group will relate to **Limited Scope firms** and **Core firms** only, as this is consistent with the type of firms to which we provide services.

The regime will apply differently depending on the firm’s categorisation. Firms classified as “**Core**” will find that the requirements are slightly more onerous than those that are “**Limited Scope**”. This reflects the perception that Core firms will present a greater risk to consumers and market integrity.

## Determine Your Firm Type



■ If you need any help assessing what type of firm you are, please get in touch with us.

## The New Senior Management Functions

Firms will continue to be subject to the Approved Persons Regime until 9 December 2019, however, from this date onwards, existing approvals will be converted automatically to Senior Management Functions (SMFs). This is known as 'mapping across'.

Below is a list of the all new Senior Manager Functions that **may** apply to Limited Scope and Core firms from 9th December 2019.

SMF	Role	Description
SMF 1	Chief Executive	The person(s) with responsibility, under the immediate authority of the governing body, for the conduct of the whole of the business (or relevant activities). <b>Note: We would not expect our typical firm to hold this function. This would be for firms of a significant size only.</b>
SMF 3	Executive Director	A director of a firm, other than a Non-Executive Director.
SMF 9	Chair	The SMF regime will not cover Non-Executive Directors (“NED”). The only exception is where the NED is responsible for chairing, and overseeing the performance of the role of the governing body of the firm. A Chair tends to have the decisive vote. <b>Note: We would not expect our typical firm to hold this function. This would be for firms of a significant size only.</b>
SMF 16	Compliance Oversight	This is the person responsible for the compliance function in the firm.
SMF 17	Money Laundering Reporting Officer	This is the person who has responsibility for overseeing the firm’s compliance with the FCA rules on systems and controls against money laundering.
SMF 27	Partner	A partner in a firm, other than a limited partner in a partnership registered under the Limited Partnership Act 1907.
SMF 29	Limited Scope	The person that deals with the apportionment of responsibilities and establishes and maintains controls.

Please note the Senior Management Functions that will apply to a firm are dependent upon its permissions and activities. The above table is not firm specific. For example, if you are not currently required to have a Money Laundering Reporting Officer under the Approved Persons Regime, then you are not required to appoint one under SM&CR.

Approved Persons will be automatically mapped across to Senior Management Functions. The vast majority of firms will not need to submit any notification to the FCA as part of this process.

## What Are The Main Differences?

### Control functions that will no longer exist

The CF30 Customer Function (Investment Adviser) will not be converted to a SMF

Firms must register investment advisers as a CF30 under the current Approved Persons Regime. This control function will not be mapped across into a SMF. Investment advisers will not be senior managers, unless that person is a senior manager because of another role. The role of adviser will fall within the Certification Regime. There is no notification required to remove this function.

Non-Executive Directors (“NEDs”) are currently approved as a CF2 control function. Under SM&CR, NEDs will no longer be approved by the Financial Conduct Authority. There is one exception to this, which is outlined below. Again, no notification is required to remove this function.

The CF2 Non-Executive Director Function will not be converted to a SMF

## A new Senior Management Function

The SMF9 is a new function that applies specifically to NEDs that are performing a 'Chair' function

There is one exception to the automatic conversion process.

This applies if the firm has a Non-Executive Director that performs a 'Chair' role, i.e. oversees all other NEDs and holds decisive voting powers. A new application is required for this SMF (known as a Form K). We believe, however, very few firms will have, or require, a NED 'Chair'.

If your firm does have a Non-Executive Director 'Chair' role please get in touch with us.

Please note, if your firm intends to appoint an individual as investment adviser (CF30) or non-executive director (CF2) up to 9th December 2019, the existing Approved Persons Regime will still apply and a Form A must still be completed.

## Understanding the SMFs that may apply to my firm?

Below is a generic summary of SMFs that will apply to Limited Scope and Core firms from 9th December 2019. As stated above, firms will not have to re-apply and individuals will map across automatically.

At this stage, we would recommend that firms look at the control functions that currently apply to individuals at the firm by referring to their firm specific details on the FCA Register.

By referring to the tables below, firms should be able to work out what corresponding SMFs will apply after 9th December 2019, bearing in mind that the CF30 and CF2 control functions will be removed.

**REMEMBER:** The table below is generic. Not all the control functions and corresponding SMFs will apply to all firms, as this is dependent upon the specific permissions and activities of the firm.

### Limited Scope Firms

Current controlled function	Corresponding Senior Management Function(s)
CF8 – Apportionment and Oversight	SMF29 – Limited Scope
CF10 – Compliance Oversight	SMF16 – Compliance Oversight
CF11 – Money Laundering Reporting Officer (MLRO)	SMF17 – Money Laundering Reporting Officer (MLRO)

### Core Firms

Current controlled function	Corresponding Senior Management Function(s)
CF1 – Director	SMF3 – Executive Director
CF3 – Chief Executive	SMF1 – Chief Executive
CF4 – Partner	SMF27 – Partner
CF10 – Compliance Oversight	SMF16 – Compliance Oversight
CF11 – Money Laundering Reporting Officer (MLRO)	SMF17 – Money Laundering Reporting Officer (MLRO)

This conversion process will happen automatically. We would recommend that firms consider at this point whether the right people will fill the right Senior Manager roles. If not, changes should be made before 9th December 2019.

### Do You Have Any Appointed Representatives (ARs)?

It is worth noting that the SM&CR will not apply to Appointed Representatives. The FCA has clarified that ARs are “outside of scope” and the relevant legislation does not give them power to apply SM&CR to these firms.

ARs will continue to be subject to the existing Approved Persons Regime. They will continue to be subject to the existing Statements of Principle and Code of Practice for Approved Persons as outlined in the APER section of the FCA Handbook, [here](#).

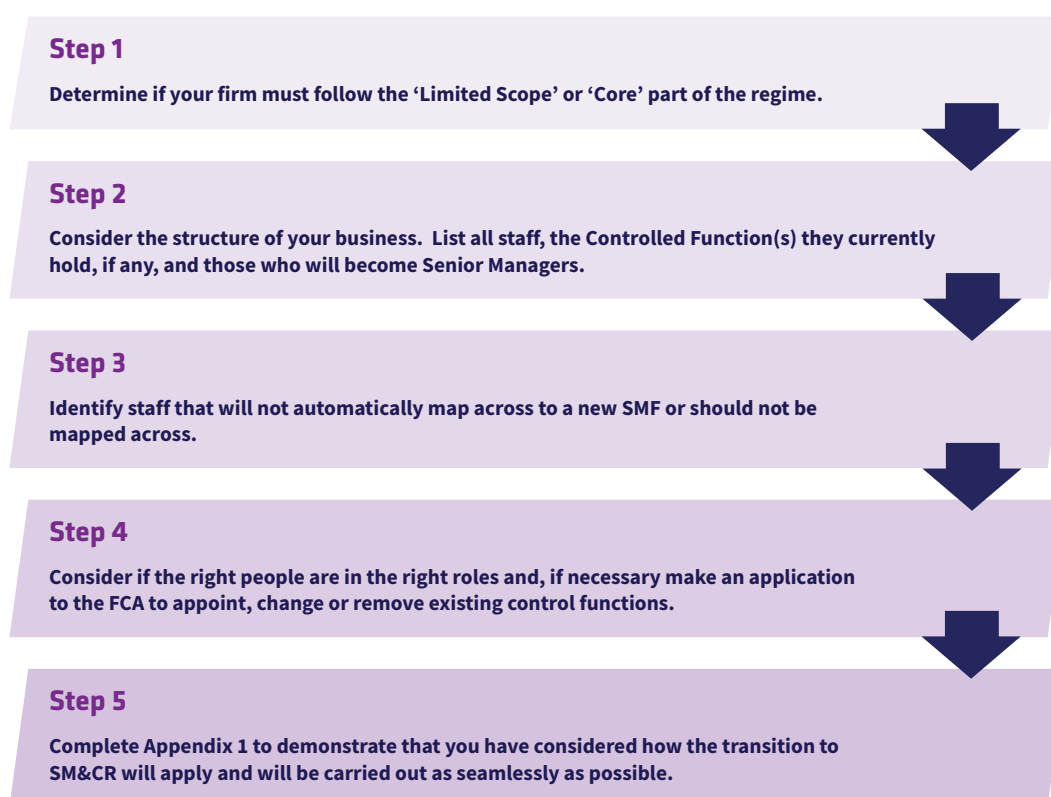
### What Do Firms Need To Do?

The Approved Persons Regime (APR) will continue to apply in full until the start of the new regime on 9th December 2019. Up until this point, the FCA will deal with applications for controlled functions as normal.

Most Core and Limited Scope firms will not need to take action ahead of conversion, however they may wish to change their approved individuals, in which case, they can use the existing process.

If an existing approved person application is not completed by 9 December 2019, the application will be converted to one for the relevant SMF.

**In preparation you should follow the steps below:**





# SM&CR Appendix 1

Is my firm “Limited Scope” or “Core”?

Does my firm have the correct individuals in the correct roles?

Firms may wish to draft a structural chart to illustrate that consideration has been given to whether the correct individuals will hold the correct SMFs after conversion.

List all staff holding a controlled function or that will need to hold a SMF to identify any impact when mapping across is carried out.

Staff Member	Current CFs	New SMFs	Change required prior to implementation?
e.g. John Smith	CF30	Not Applicable	No
e.g. Mavis Riley	CF1	SMF3	No
e.g. Adam Scott	CF1, CF10, CF11	SMF3	Yes – as planning to reduce hours – relocate CF10 and CF11 before commencement of SM&CR



**Do I need to add individual control functions prior to commencement, perhaps with a view to these employees automatically mapping across to a Senior Manager Function? An “Approved Persons Regime FCA Form A” should be completed. This applies to the following employees:**

**Do I need to cancel individual control function(s) prior to commencement? An “Approved Person Regime Form C” should be completed. This applies to the following employees:**

**Do I need to change an individual’s control function, e.g. an individual is going to give up a control function and take on a new convertible control function prior to commencement. An “Approved Person Regime Form E” should be completed. This applies to the following employees:**

**Do I need to add SMF9 (Non-Executive Director as Chair person) by using Form K?**

**Please refer to Appendix 2** for further details on the forms to use when amending existing approvals ahead of SM&CR commencement.

**Review carried out by (Name):** .....

**Date review completed:** .....

**Action required: (Yes/No)** .....

**Date completed:** .....

## SM&CR Appendix 2

### Which forms do I need to use to make changes prior to commencement on 9 December 2019?

Most Core and Limited Scope Firms do not need to take any action ahead of conversion but, if firms wish to change their approved individuals, the following principles apply:

The existing processes for individual applications continue to apply as usual until the start of the new regime;

New SM&CR application forms will be available for submission before commencement, but these forms should only be used for approvals that will be effective from after the start of the new regime;

An APR application submitted, but not determined before the start of the new regime, will be converted to an application for the relevant SMF at commencement.

The following table summarises which FCA forms are required in a number of different scenarios, however, it is not exhaustive.

Scenario	Action Required
Convert approved individuals to their mapped SMFs.	No action is required for these individuals.
An approved individual in a mapped SMF is <b>not to be converted</b> to the corresponding SMF (for example, they have resigned).	<b>Form C (Notice of ceasing to perform controlled functions including Senior Management Functions)</b> needs to be submitted for that individual.
An individual is performing the CF8 (Apportionment & Oversight function) for a firm that will be classified as Limited Scope under the new regime.	No action is needed as this function will be converted to the new SMF29 – Limited Scope function at commencement.
A CF2 – Non-Executive Director is also currently acting as ‘Chair’ and wishes to continue in that role under the new regime.	Form K (Conversion notification form) needs to be submitted for the individual to become the Chair.
An approved individual is going to give up an existing controlled function that will lapse at the start of the new regime (e.g. CF30) and take up a new convertible controlled function (e.g. CF10) <b>prior to commencement</b> , with the intention that they will be converted to the relevant SMF (SMF16).	In such cases the <b>APR Form E (Internal transfer of a person performing a controlled function)</b> needs to be submitted.
The firm is seeking approval for a new individual with immediate effect, so they can be converted to a mapped SMF after commencement.	An <b>APR Form A</b> should be submitted.

Should you need further guidance on which form to use, please get in touch.

# Compliance

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