

Government and regulators kick start SM&CR review

AT A GLANCE

March 2023

What's new?

- The Government and UK regulators kicked off their review of the Senior Managers & Certification Regime (SM&CR) on 30 March 2023.
- HM Treasury (HMT) issued a [Call for Evidence](#) on the legislative aspects of the regime, and the FCA and PRA published a joint [Discussion Paper \(DP1/23\)](#), seeking industry views on the effectiveness, scope and proportionality of the regime, and how it might be improved.
- The Government first announced it would be carrying out a review of the SM&CR in December 2022, as part of the [Edinburgh Reforms](#).

What does this mean?

- HMT, the FCA and PRA stress that there is broad support for the principles and objectives underpinning the SM&CR, and emphasise the positive impact the regime has had on conduct, governance and individual responsibility. As a result, a fundamental overhaul of the regime is considered unlikely.
- However, HMT and the regulators acknowledge that firms and stakeholders have raised some concerns and questions about aspects of the regime. These include: the growth in expectations of Senior Managers in respect of new and emerging risks; delays in Senior Management Function (SMF) approvals; the interaction of SM&CR with other regulatory regimes; the differing levels of scrutiny applied to different firms; the breadth of coverage of the Certification Regime; and the frequency of submitting SM&CR-related information and reviewing certification.
- HMT and the regulators say they are keen to identify improvements to the regime and opportunities to better deliver on its objectives, while minimising the impact on firms and the regulators.
- Both papers ask questions about the effectiveness of a broad range of aspects of the regime, including the regulators' approach to enforcement, and the scope and proportionality of the regime.
- In addition, the regulators acknowledge that firms have raised concerns about recent delays in the Senior Manager approval process, and say they have taken action to address this. HMT asks for views on whether these actions have been effective, while the FCA and PRA ask for suggestions of any further improvements to the SMF approval process.
- HMT also seeks views on how the SM&CR compares with similar regimes in other jurisdictions - including where there may be opportunities for greater alignment, and ways to improve the UK's competitiveness.

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What do firms need to do?

- Risk management, individual accountability, strong governance and healthy cultures remain key priorities for the regulators, and that is unlikely to change as a result of this review.
- However, the broad range of questions asked in the papers suggest that HMT and the regulators are taking an open-minded approach to potential changes to the regime, and firms should use this opportunity to engage and suggest improvements.
- And while the SM&CR is generally regarded as a success, there have been some concerns about the growing scope and expectations of Senior Managers, as the regulators' remit has expanded in recent years to encompass non-financial risks such as operational resilience, diversity and inclusion and the evolving ESG agenda.
- Firms may wish to reflect on evolving areas of policy such as the incoming consumer duty, and the regulators' potential diversity and inclusion proposals, in their responses. In areas such as these where obtaining consistent and reliable outcomes-based data is a challenge for the industry, holding individuals to account can be more problematic.
- Firms should consider questions posed in the Call for Evidence and DP alongside their responses to related policy initiatives - for example, the PRA's proposals for a Strong and Simple prudential framework for smaller banks and building societies, the regulators' potential proposals on diversity and inclusion, and the FCA's recent discussion paper on sustainability-related governance and culture.
- Firms which operate in multiple jurisdictions should also particularly consider any opportunities for alignment or lessons learned from other regimes.

Next steps

The Call for Evidence and DP both close on 1 June 2023. HMT and the regulators will then decide whether to propose any specific changes to the regime. Some of the areas of potential change covered in the papers may require legislative change.



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