

SENIOR MANAGERS & CERTIFICATION REGIME (SM&CR) REFORM:

Overview for 2023



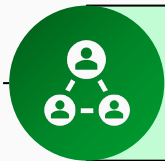
Introduction to the Senior Managers & Certification Regime (SM&CR)

The SM&CR was introduced in response to failures in senior management conduct and accountability evidenced in the Global Financial Crisis of 2008. Its key objectives include:

- Reduce Harm to Consumers
- Strengthen Market Integrity
- Encourage Personal Responsibility among Staff
- Improve Conduct at All Levels
- Make Sure Firms and Staff Clearly Understand Who Does What

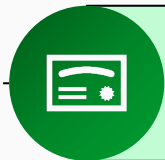
Regulatory expectations under the regime are proportional to the degree of influence a stakeholder has on the firm's decision-making. In particular, it is categorised under **three key elements**.

Senior Managers Regime



- Under the Senior Managers Regime, the SM&CR designates specific key roles in a firm as a "Senior Management Function." These roles are expected to be exercised by the senior-most staff at a firm.
- Key SMF roles include executive positions such as chief executives, finance directors, senior oversight staff, and chairs of boards among others. These individuals must be approved by the regulators prior to appointment and are subject to a set of prescribed responsibilities.

Certification Regime

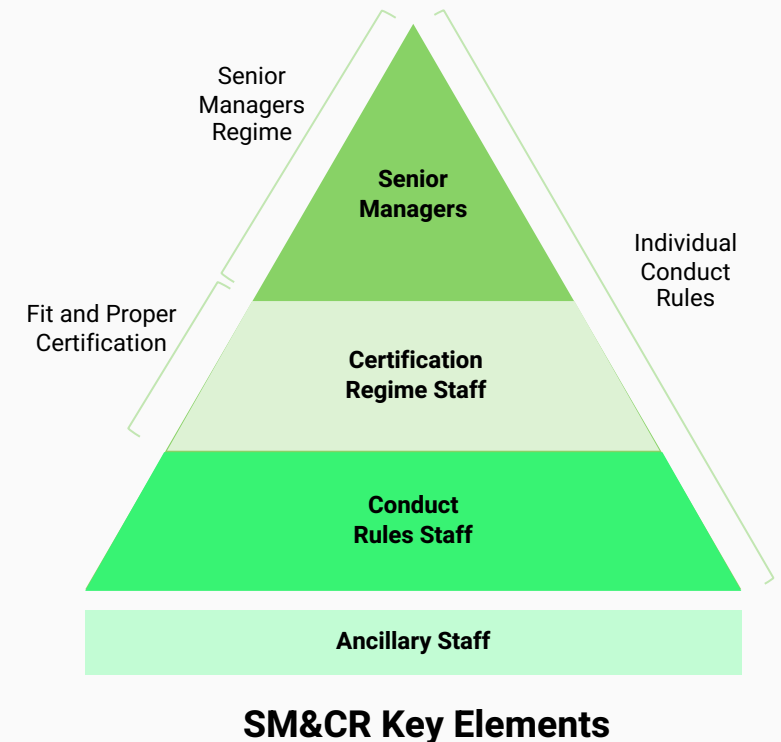


- The Certification Regime covers functions that are not SMF roles but still have a material impact on risks to customers and the wider risk profile of the firm.
- Firms must ensure that staff covered under this regime fit and proper for certification and review their eligibility annually and subject them to regulatory references that cover the previous six years of the individual's employment.

Conduct Rules



- The Conduct Rules cover basic standards of individual conduct that apply to all members of staff.
- There are additional conduct rules that specifically apply to senior managers. Notable examples include integrity, exercising diligence and skill, regulatory cooperation, ensuring proper market conduct, and more recently (from 31 July 2023) ensuring good outcomes for retail customers as a result of the Consumer Duty.



KEY ELEMENTS OF THE SM&CR



Nature and Scope of SM&CR Responsibility

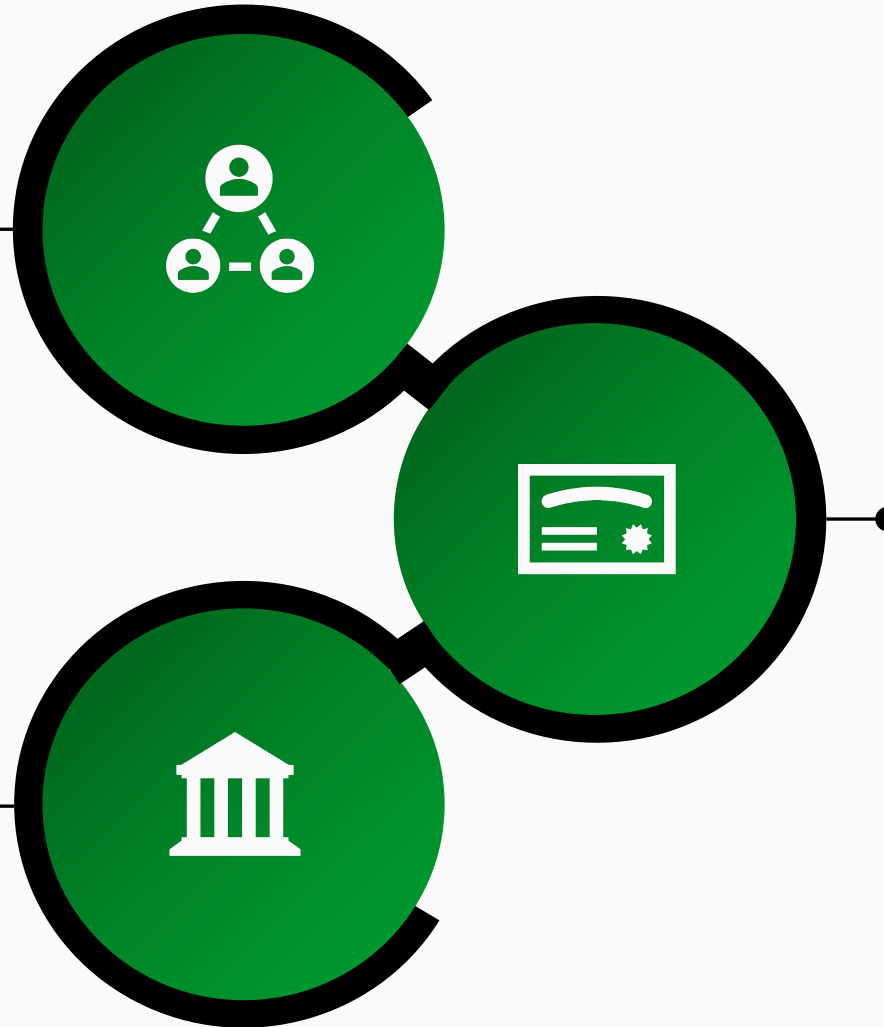
The diagram below captures the differences in the nature and scope of responsibilities that apply to each individual regime of the SM&CR.

SENIOR MANAGERS REGIME

- ✓ Senior Managers ordinarily hold certain inherent responsibilities as a part of their SMF role.
- ✓ Outside of limited-scope firms, senior managers have a set of overarching “prescribed responsibilities” from the FCA Handbook covering strategic conduct and prudential risks.
- ✓ Irrespective of a firm’s category, each Senior Manager is allocated a “Statement of Responsibilities” that lists specific roles and responsibilities, with reference to the prescribed responsibilities.
- ✓ All senior managers also hold a “duty of responsibility” for any aspect of the firm for which they hold responsibility. They are expected to take “reasonable steps” to prevent any breach of regulatory requirements

CONDUCT RULES

- ✓ Conduct rules constitute high-level rules that apply to all staff in a firm (excluding ancillary staff) with the objective of improving conduct across the organisation.
- ✓ There exist two tiers of conduct rules. First, the “individual conduct rules” apply to all staff (excluding ancillary staff). Second, the “senior conduct rules” apply only to Senior Managers.



CERTIFICATION REGIME

- ✓ Since the Certification Regime applies to individuals performing roles that risk “significant harm” to customers, they must pass a “fit and proper” test.
- ✓ The applicability of the Certification Regime is wide and extends beyond the bank’s employees, and also covers consultants, contractors, and secondees.
- ✓ Senior managers will only be bound by the Certification Regime in a circumstance they perform a function separate and distinct from their SMF. In such a case, the senior manager will have to pass the fit and proper test.



Categories of SM&CR Firms

To account for the diversity of firms, the stringency of the SM&CR is proportionate to the size and complexity of the regulated firm. **The diagram below captures the three categories of firms and the key differences in rules that apply to them.** It is to be noted that the requirements identified below are non-exhaustive and were chosen to represent the key differences in rules that arise across the three categories.



Requirements

Senior Management Functions (SMFs)	Up to 3 SMFs	Up to 6 SMFs	Up to 17 SMFs
Prescribed Responsibilities	None	Yes – 6 out of 21 prescribed responsibilities to be allocated	Yes – 14 out of 21 prescribed responsibilities to be allocated
Overall Responsibility Function	Yes	No	No
Handover Procedure	Yes	No	No



Comparison between UK and EU

PRA/FCA SM&CR



- Applicable to all UK-regulated FIs, including and not limited to banks, building societies, credit unions and investment firms. Usually seen as more detailed and complex.
- Categorises individuals who perform a senior management function and hold positions of responsibility as Senior Managers (SMFs). The Certification Regime (CR) applies to individuals whose roles could significantly impact the firm, but are not senior managers.
- Firms must certify the fitness and propriety of Certification Regime employees annually
- Responsibilities Map - outlining the responsibilities of senior managers. The UK has specific SMFs (pre-defined roles) that must be assigned to individuals. There is also a role known as the Senior Independent Non-Executive Director (INED).
- MRTs defined by the potential impact on the firm's risk profile, with specific remuneration rules



ECB Guidelines



- ECB guidelines focus on significant banks within the Eurozone that are directly supervised by the ECB. Often described as more straightforward and potentially simpler for compliance purposes.
- Identifies as Executive Directors, Non-Executive Directors, and Key Function Holders. When compared to UK, the roles may vary, but essentially they refer to individuals who hold significant influence or responsibility within the firm. (Difference in Terminology)
- Prior to appointment, members of management bodies of significant credit institutions and financial holding companies are subject to the Fit and Proper assessment. However, there is no annual review system.
- Does not specifically require a "Responsibilities Map". Both pre-defined roles and INED equivalents do not exist in the ECB guide.
- MRTs defined using both qualitative and quantitative criteria



Scope of Application



Individual Accountability



Certification Requirement



Responsibilities Map/Pre-Defined roles





MRT Criteria



SM&CR Reform Agenda in 2023

Pursuant to the Edinburgh Reforms, HM Treasury (HMT) in collaboration with the PRA/FCA has launched the first full review of the SM&CR through **two key documents**.

<p>1  HMT: Call for Evidence (CfE) <i>The HMT has launched a CfE to gain the industry's feedback on the SM&CR and better deliver on the regime's key objectives. The feedback is expected to inform HMT's policy decisions on the overall effectiveness of the regime and assess its impact on the competitiveness of the UK financial sector.</i></p>	<p>2  PRA/FCA Discussion Paper (DP) 1/23 <i>Alongside the HMT CfE, the regulators have launched DP 1/23, which raises questions on the differing scopes of the Senior Managers, Certification, and Conduct Rules regimes and the specific operational tools under it. It also assesses the SM&CR's proportionality and overall ability to increase the safety and soundness of firms.</i></p>
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Overall Effectiveness	Operational	Competitiveness				
<ul style="list-style-type: none"> ✓ • Has SM&CR delivered against its core objectives? ✓ • Has the regime remained true to its objectives? ✓ • What is the industry's experience and reflections from the regime? ✓ • Policy examples from other regimes? ✓ ✓ • Is the current scope correct to achieve the aims of the regime? ✓ ✓ • Are there "lessons learned" that the government should consider as a part of future decision-making? ✓ • Does the regime's expectations from individual directors also promote collective responsibility? ✓ • Does the prospect of enforcement promote accountability? Does it deter the taking up of SMF roles? Prospect for reform? ✓ • Do the categories of responsibilities (SoRs, DoRs, Prescribed Responsibilities etc.) support individual accountability? ✓ • Does the Certification Regime ensure individuals are fit and proper? ✓ • Is the Directory of Certified and Assessed Persons effective? 	<ul style="list-style-type: none"> ✓ ✓ • How does the level of detail and sanctions of SM&CR compare with other regimes? ✓ ✓ • Has the SM&CR made it easier to hold individuals to account and take disciplinary action when relevant? ✓ • Has the SM&CR improved safety, soundness, and conduct within firms? ✓ • Are the regime's fitness and propriety requirements useful for appointing qualified individuals to SMF roles? ✓ • How could the process of SMF approvals be improved? ✓ • Are criminal record checks useful? ✓ • Is the 12-week rule useful? ✓ • Are regulatory references a useful tool? ✓ • Are the conduct rules effective? 	<ul style="list-style-type: none"> ✓ • Are the core objectives appropriate for the UK? ✓ ✓ • What is the SM&CR's impact on the UK's global competitiveness? Scope for enhancement? ✓ • Specific areas of SM&CR that the industry considers as deterrents for firms relocating to the UK and potential solutions. 				
		<table border="1" style="width: 100%; text-align: center;"> <tr> <td style="width: 50%;">HMT CfE</td> <td style="width: 50%;">✓</td> </tr> <tr> <td>PRA/FCA: DP1/23</td> <td>✓</td> </tr> </table>	HMT CfE	✓	PRA/FCA: DP1/23	✓
HMT CfE	✓					
PRA/FCA: DP1/23	✓					
		<p>Deadline for industry responses to the HMT CfE and PRA/FCA DP 1/23: 1 June 2023.</p>				



Appendix:

List of Key SMF and Certification Regime Roles



Key SMF Roles

This slide captures key SMF roles and their applicability across Core, Limited Scope and Enhanced Firms. The table below **is not an exhaustive list** of all SMF functions and is a list of the most prominent roles, particularly those relevant to systemically important institutions.

SMF	Senior Management Function	Core Firm	Limited Scope Firm	Enhanced Firm
SMF1	Chief Executive Officer Function	✓	×	✓
SMF2	Chief Finance Officer Function	×	×	✓
SMF3	Executive Director Function	✓	×	✓
SMF4	Chief Risk Officer Function	×	×	✓
SMF5	Head of Internal Audit Function	×	×	✓
SMF7	Group Entity Senior Manager Function	×	×	✓
SMF9	Chair Function	✓	×	✓
SMF10	Chair of the Risk Committee	×	×	✓
SMF11	Chair of the Audit Committee Function	×	×	✓
SMF12	Chair of the Remuneration Committee Function	×	×	✓
SMF13	Chair of the Nomination Committee Function	×	×	✓
SMF14	Senior Independent Director Function	×	×	✓
SMF16	Compliance Oversight Function	✓	✓	✓
SMF17	Money Laundering Reporting Officer Function	✓	✓	✓
SMF18	Other Overall Responsibility Function	×	×	✓
SMF24	Chief Operations Function	×	×	✓
SMF27	Partner Function	✓	×	✓
SMF29	Limited Scope Function	×	✓	×



List of Certification Regime Functions

This slide lists all the Certification Regime Functions identified by the FCA and provides context on the risks the regulator intends to manage through the Regime. It is to be noted that the application and enforcement of the Certification Regime are **tailored to specific roles in specific institutions** depending on their systemic importance and risk profile.

Certification Regime Function	Nature of Risks
CASS Oversight	Applies to individuals responsible for overseeing compliance to the Client Assets Sourcebook, which outlines requirements for protecting client assets
Proprietary Trader	Risk of significant harm emerging from a proprietary trader to their own firm and any potential harm to the firm's clients.
Significant Management Function	Risk of significant harm from a senior manager with significant management functions, such as overseeing key business units (e.g. retail banking, corporate lending, personal lending etc.) or being a member of a committee overseeing these activities. The FCA also accounts for the size and significance of the firm when supervising this function.
Functions Requiring Qualifications	Applies to functions which have a qualification requirement under the FCA. Notable functions include providing financial advice, dealing, investment management etc.
Managers of Certification Employees	Applies to individuals who do not hold an SMF but supervises an employee performing a Certification Regime function.
Material Risk Takers	Applies to staff whose professional activities involve the assumption of risks that have a material impact on the institution's risk profile.
Client Dealing Function	Applies to staff whose role involves engagement with clients in specific activities defined by the FCA. Notable examples include providing investment advice, investment management, and providing corporate finance advice.
Algorithmic Trading Function	Applies to staff whose role involves approving the deployment, monitoring, and managing computer algorithms intended for financial trading



Contact Us



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Vishwas has international FS consulting and risk management experience across Europe, the US, the Middle East and SE Asia, leading a multitude of risk transformations and change programmes.

Vishwas is a trusted advisor to the C-Suite and senior management across a number of financial institutions with strong working relationships with industry associations, and academia and is a speaker at industry events and forums. He is also a member of the Institute of Directors, London.

Previously at Deloitte, he led complex risk transformations, Brexit programmes, prudential regulation (ICAAPs, stress testing and risk appetite) and regulatory reporting projects with significant banks (PRA and SSM) and other financial services firms.



Lokesh Kamble
Manager

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Lokesh has over 13 years of experience working with financial institutions across Strategic Transformations, Market & Liquidity Risk, Operational Risk, Regulatory Reporting and Treasury Product Management. Lokesh has a deep understanding of regulatory and prudential risk requirements for credit risk, including rule interpretation and impact assessment and has experience working on credit risk standardised approach programmes at previous firms.

Recently, he performed an independent validation and review of a partner software platform for the implementation of the Credit Risk rules in their underlying rules engine.

Lokesh also recently completed an ICAAP review project with a bank based in the UK. The project covered a review of the Pillar 1, Pillar 2A, and Pillar 2B methodologies.



Ritianne Abela
Manager

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Ritianne has more than fifteen years of experience in the financial services industry having worked with two significant ECB SSM banks and with one of the top ten international advisory firms.

She has held the pen to a number of key risk and regulatory documents including Risk Management Frameworks, Corporate Governance Frameworks, Board Committee Terms of Reference, and Board Suitability Assessment Policies. She has deep expertise in working with the C-Suite, regulators, and supervisory inspectors.

Her professional experience covers credit risk, enterprise risk management, outsourcing risk, ESG, regulatory affairs & supervisory dialogue, and corporate governance.



Rayan Bhattacharya
Consultant

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Rayan is a Consultant with experience in risk governance, risk target operating models (TOMs), and board advisory support on regulatory engagement. He has a strong understanding of the UK/EU prudential and conduct regulatory regimes and board governance considerations at complex financial institutions.

Recently, Rayan has supported the European board of a US G-SIB with ICAAP remediation and regulatory engagement, a European G-SIB with risk TOM design, a UK building society with an ICAAP review, and a European D-SIB on AML/KYC remediation.

Rayan has a Master's degree in Securities and Financial Regulation Law from the London School of Economics and is an ICA Certified Specialist in Corporate Governance.



