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3HR Legal Weekly

FCA and PRA Authorised Firms Update

The Senior Managers Regime ... are you ready?

The Financial Conduct Authority (FCA) and the Prudential Regulatory Authority (PRA) have produced Rules and Guidance covering the Senior Management Regime (SMR) and the Certification Regime.

These Regulations establish a revised framework of rules that apply to certain individuals (particularly Senior Managers) working within banks, building societies, PRA-designated investment firms and designated insurance firms. These have significant implications for affected firms and their HR functions.

Senior Managers are those who perform a Senior Management Function and who have key roles and/or significant overall responsibility for a business area or areas. It is fundamental that these individuals take responsibility and control of their functions and, they must act with due skill and integrity at all times. Actions taken regarding issues and concerns will be monitored closely as will any delegated matters.

The Certification Regime applies in respect of other staff who could pose a risk of significant harm to the firm or any of its clients. These staff will not be pre-approved by regulators and thus firms need to have procedures for assessing for themselves the fitness and propriety of these individuals. The procedures will be important not only when recruiting but also when reassessing the fitness and propriety of staff on an annual basis.

Firms must certify that all staff performing such relevant functions are 'fit and proper' to perform their roles.

The regimes place serious emphasis on honesty and integrity, as well as values, which are reflected in the Conduct Rules published by the FCA. Individuals subject to the SMR or the Certification Regime will be subject to these Conduct Rules.

The Conduct Rules set out a basic standard for behaviour that all those covered by these regimes will be expected to meet. Firms must ensure that staff subject to the new rules are aware of the Conduct Rules and how to apply them.

Your considerations should fall within the following main categories (not an exhaustive list):

1. Accountability - delegation of tasks not responsibility.
2. Business Governance - decisions to be made at the right level, adequate evidence to be recorded.
3. Strategy - business approach and objectives must meet the requirements of the SMR.
4. Span - more individuals will be 'caught' by the SMR, for example Chairmen and Non-Executive Directors. The new 'statement of responsibility' requirement will insist more control is taken.
5. Management Responsibilities - structure charts will need to illustrate governance arrangements.
6. Breach Controls - evidence to be recorded regarding the 'reasonable steps' taken to stop, remedy or prevent breaches.
7. Group Governance - all group undertakings to have a 'group entity senior manager'.
8. Conduct Rules - firms will be expected to notify the regulator of any disciplinary action taken regarding non-adherence of the new standards.

Changes may need to be made to:

The number of individuals involved under the SMR
Current governance and reporting lines
Existing policies and procedures

You may need to:

Conduct training and/or make staff changes
Consider the impact on other internal departments, for example HR
Form a project team and/or steering group to assess the scope of change

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