

# SM&CR – A WELCOME DELAY TO FINAL IMPLEMENTATION FOR MANY

**U**sually the Financial Advice sector breathes a big sigh of relief as the schools break up in July as it usually means there is a let up in regulatory announcements and proposals for regulatory change.

However, 2020 has turned into a very different year. For many schools, the year finished at the end of March when CV-19 was officially classified as a pandemic and life as we knew it changed into something very different.

So, for many, the annual juggling of working and school holidays was replaced by a five month balancing act between home working and home schooling followed by school holidays. Against this backcloth, I have no doubt that many firms and their HR & Compliance teams were mightily relieved to see an update from the FCA proposing delays to the remaining elements of SM&CR.

On the 17th July, the FCA put out a news statement on their website that made a number of **announcements** in respect of delays to the final elements of implementation of the Senior Managers & Certification Regime (SM&CR).

This announcement confirmed what many in the industry had been hoping for, i.e. that there would be additional “breathing space” for firms around implementing the final elements of SM&CR. The proposed changes are:

- 1** HM Treasury proposing a change in legislation to allow the deadline for the implementation of the Certification Regime to be delayed until 31st March 2021.
- 2** A consultation proposing to extend the deadline for training staff in the Conduct Rules.
- 3** A consultation proposing to extend the deadline for reporting Directory Persons data.

As an aside, it’s interesting to me that it appears to be a little known fact that the Certification Regime requirements of SM&CR are firstly a legislative requirement, hence the need for HM Treasury to propose amending the legislation which is then supported by guidance in the FCA Senior Management Arrangements, Systems and Controls sourcebook (SYSC).

This seems to be lost on many, but for industry observers this only underlines how critical the introduction of the Certification Regime as a concept is to the FCA in its on-going supervision of the markets and its desire to increase the competence and professionalism of those that operate within it. In my view, any firms that have not ring-fenced resource and finance to help implement the regime within their firm, does so at their peril! Remember, how you interpret and implement regulatory change is a clear signal to the regulator about the culture within your firm.



At a recent event I attended, Peter Ewing from the FCA was feeding back on the FCA’s Banking Stock Take report. It was interesting to note how frank the discussion was around the findings. Peter said that if they were to traffic light the implementation of SM&CR within the banking arena, then the implementation of the Tier 1 & 2 Conduct Rules training programmes to those populations that required them would be classified as red. The reasons cited were as follows:

- ◊ Interviewees believed that staff generally understood the conduct rules. However, evidence suggests that firms have not always sufficiently tailored their conduct rules training to staff’s job roles.
- ◊ Firms are often using their own values to articulate how they bring the conduct rules to life. However, there was insufficient evidence to be confident that firms have clearly mapped the conduct rules to their values.

- ◊ Many firms were often unable to explain what a conduct breach looked like in the context of their business.

The full detail of the report itself can be found [here](#)

Based on that alone, it is clear that if you overlay this with CV-19, home working, home schooling, and some staff within firms being furloughed, it really is the right thing to do to delay implementing conduct rules so firms can refine their content and delivery approaches and learn lessons from the banking sector. However, a few months delay does not mean firms can relax; far from it.

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