

# The New Senior Manager and Certificate Regime, SM&CR

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## Understanding what is meant by Reasonable Steps...

- SM&CR introduces a statutory duty of responsibility for all Senior Managers to take reasonable steps to prevent and detect regulatory breaches from occurring in their respective areas of responsibility.
- Provides the opportunity for more precise enforcement by regulators against Senior Managers for their failings to take reasonable actions in the event of a contravention.
- The burden of proof to determine when reasonable steps have not been taken rests with the Regulators.
- Regulators will evaluate the actions taken by the individual against actions that they would reasonably expect to be taken to prevent and detect the breach from occurring. They will also consider other alternative actions that could or should have been taken to prevent the regulatory contravention.

## The SM&CR Reasonable Steps Compliance Framework

The SM&CR compliance framework provides a basis to assess whether each senior manager has practical and reasonable steps in place to support their decision-making rationale and demonstrate fulfilment of their individual responsibilities.

## The Key components for an effective framework

### A) Assess Knowledge, Expertise and Competence

1. Is the individual Senior Manager suitably qualified and do they have the appropriate knowledge, skills and support available to them to enable them to carry out their responsibilities effectively?
2. Did the Senior Manager obtain all relevant history and background to enable them to perform their duties and oversee their function effectively?
3. Have steps been taken by the Senior Manager to better understand the risks pertaining to their area of responsibility including working collaboratively with second and third lines of defence?
4. Does the Senior Manager keep abreast of developments in the wider firm?
5. How does the Senior Manager keep up to date on key trends and industry level changes?
6. What succession planning is in place for the Senior Manager?
7. Is there appropriate hand over procedures in place for newly appointed Senior Managers?

### B) Understand Delegated Activities & Arrangements

1. Are appropriate delegations of authority in place and assigned to the Senior Manager to empower them to make relevant decisions?
2. Does the Senior Manager have effective oversight of delegated activities?
3. How are these delegated activities and arrangements monitored?

### **C) Apply Effective Governance**

1. Is the Senior Manager a member of the relevant management or governance function so that they can discharge their responsibilities effectively?
2. What governance and escalation processes are in place to support the Senior Manager's timely communication and escalation of issues?
3. What is the governance structure to support the Senior Manager and is there regular attendance at committee meetings?
4. Are key decisions discussed at governance committees and can it be evidenced that there is suitable challenge to strategy proposals and decisions taken?

### **D) Adequate Record Keeping and Management Information 'MI'**

1. Is there quality MI in place to support the Senior Manager?
2. Does the Senior Manager assess and critically challenge the quality of the MI reporting they receive?

### **E) Joint responsibilities**

1. Are there any prescribed responsibilities that are jointly shared or held by more than one individual?
2. Is this appropriate and justifiable?
3. Does the Statement of Responsibility include a clear explanation of the shared prescribed responsibility?
4. Have you identified any gaps or omissions between the shared responsibilities of the Senior Managers?
5. Can the Senior Managers demonstrate that they have reasonable steps in place to support their actions and fulfilment of their duties?

This is not a comprehensive list. Each breach incident should be thoroughly investigated and considered in its own right as means to demonstrate that the individual responsible for that area took reasonable and practical steps to prevent and detect the breach from occurring.

The inclusion of "Scenario evaluations" within the Framework is imperative to guide senior managers towards exercising effective judgement; promotion of strong decision rationale; and ability to influence culture and behavioural trends across the firm.

Firms should consider how these scenarios support the individual senior manager to perform their duties confidently and competently but more importantly, demonstrate to Regulators that reasonable steps and actions were taken in the event of a regulatory breach from occurring.

The FCA will also assess the Firm's compliance with the SM&CR Conduct rules.

We are here to help!

Xcina Consulting can help you navigate this important regulatory change from project management of your SM&CR programme, gap analysis for SM&CR readiness, design of the SM&CR remediation plan, to full support for implementation and ongoing compliance.