

SM&CR Case Study Series

SENIOR MANAGERS, CERTIFICATION STAFF OR CONDUCT STAFF?

ISSUE 2 • APRIL 2019

This series, designed to help you prepare for the implementation of the SM&CR, charts the preparatory efforts and challenges a typical core firm will encounter. Our case study follows fictitious firm “Smith & Cromer Limited” with key milestones and tips being released to you periodically throughout the year.

This is the second instalment in this series. Before you read on, have you:

1. Read the first instalment?
2. Watched our one-minute video - SM&CR in a Nutshell?

If you are up to date, read on...

Our case study firm

Smith & Cromer Limited is a fictional solo-regulated firm active in the wholesale markets with 25 staff in total, including 20 approved persons. There are five executive directors and two non-executives. All but one of the executive directors also performs the customer function under the approved persons regime. The compliance oversight function and the MLRO function are both performed by Sam Carr, who is not a director of the firm.

Sam is steering the SM&CR project plan and she has reached the second stage where she will identify the senior managers at the firm, those that need to be certified as fit and proper, and the remaining staff. She will also identify any staff members that are considered ancillary and decide whether they will be trained on the conduct rules.



SM&CR Preparation Timeline

Are we where we should be? **MAR 2019**

Senior managers, certification staff or conduct staff? **APR 2019**

SM&CR documentation updates **MAY 2019**

Fitness and propriety of senior managers **JUN 2019**

Training for senior managers **JUL 2019**

Fitness and propriety of certification staff **AUG 2019**

Training for certification staff **SEP 2019**

Setting up systems & controls to support SM&CR **OCT 2019**

Training for conduct staff **NOV 2019**

SM&CR checklist **DEC 2019**

Senior managers, certification staff or conduct staff?

1) Senior managers

Sam is aware that the FCA prescribes six potential senior management functions (SMFs) for core firms like Smith and Cromer.

Four governing functions:

- SMF 1 Chief Executive
- SMF 3 Executive Director
- SMF 27 Partner
- SMF 9 Chair

And two required functions:

- SMF 16 Compliance Oversight
- SMF 17 Money Laundering Reporting Officer

Since Smith and Cromer is a limited company and not a partnership, Sam can immediately ignore SMF 27 – Partner.

So, Smith and Cromer will have five senior management functions, and the persons holding these functions will be considered senior managers.

SMF 1 – the Chief Executive is easy. That will go to the CEO of the firm. Similarly straightforward are the SMF 3 senior managers – that will be the other four executive directors at Smith and Cromer.

It is one of the non-executive directors that currently acts as chair at Smith and Cromer, so this individual will be SMF 9 – Chair as well as a non-executive director (NED). This will necessitate submitting Form K to the FCA to convert this individual from CF 2 NED status to SMF 9. The second NED will not hold a senior management function.

Things become a little more difficult in considering who is to take on the SMF 16 & 17 roles. Should it be Sam herself, who has day to day responsibilities as Compliance Officer and MLRO? Or the person at the top of her reporting line – Smith and Cromer's CEO? After some thought and discussion including both the CEO and Smith and Cromer's retained

compliance consultant advisors, the decision is reached that it will be the CEO who picks up SMF 16 (Compliance Oversight) in addition to his SMF 1 (Chief Executive) role. The SMF 17 (Money Laundering Reporting Officer) will sit with Sam and mean that she, alongside most of the other board directors, will be considered a senior manager by the FCA.

2) Certification Staff

Identification of those members of staff that need to be certified as fit and proper by the firm is pretty straightforward for Sam. It will be all of the 20 persons that are currently approved to perform the customer function and the single non-executive that is not a senior manager. Because of Smith and Cromer's size, there will be no managers of certified staff that will not themselves be either certified or both certified and senior managers.

The four executive directors that are currently approved as CF 30s (customer functions) will need to be certified as fit and proper as well as being approved by the FCA as senior managers.

3) Conduct staff

Sam is aware that training in the conduct rules is required for almost everybody. That training will need to encompass both the individual conduct rules and the senior managers' conduct rules for the board, and for Sam herself as the only senior manager that will not also be a board member. The remaining staff will need to be trained on just the individual conduct rules.

There is one person that Sam is in two minds about. The receptionist at Smith and Cromer could be considered as an ancillary staff member and be excluded from the conduct rules training. However, Sam feels that despite this possibility, it is preferable and prudent to include the receptionist. Receptionists can hear all manner of sensitive information, so an awareness of the individual conduct rules could be very useful despite it not being a regulatory requirement.

KEY TAKEAWAYS

- 1 SMFs – carefully consider the allocation of SMF 16 – Compliance Oversight. Should it be the Head of Compliance or a board executive? Remember the person to whom it is allocated needs to be sufficiently independent but also needs to have sufficient authority to discharge the responsibilities of the role.
- 2 Certified staff – remember that certified staff fit and proper assessments may need to be considered for executives who also require approval from the FCA as SMFs.
- 3 Individual conduct rules – just because certain staff members are considered 'ancillary' does not mean they need to be excluded from any subsequent training that will be delivered.

Our case study will continue next month with 'SM&CR documentation updates'.

Now the staff have been identified, the next stage is to consider how the SM&CR impacts existing documentation – most obviously adding the prescribed responsibilities to the SMF job descriptions.



TRAINING

Extensive experience in training senior managers and other staff who are subject to the SM&CR.

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