

SM&CR Case Study Series

FITNESS AND PROPRIETY OF SENIOR MANAGERS

ISSUE 4 • JUNE 2019

This is the fourth instalment in our SM&CR case study series, designed to help you prepare for the implementation of the FCA's Senior Managers & Certification Regime (SM&CR). This series follows fictitious firm Smith & Cromer Limited's project to implement the Regime with the process and tips being released to you throughout the year.

Have you:

1. Read the first three instalments?
2. Watched our one-minute explainer video – SM&CR in a Nutshell?

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

Our case study firm

Remember 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; one of whom performs the role of Chair at the firm. All but one of the executive directors also performs the customer function under the Approved Persons Regime. The compliance 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](#) and so far Smith & Cromer has [identified the senior managers and certification staff](#), and considered the [documentation updates](#) that will be necessary for the SM&CR to be implemented in the firm. It is now time to assess the fitness and propriety of the senior managers fulfilling SMFs, and devise training plans to address any shortcomings.

The Senior Managers and their prescribed responsibilities

The individuals who will take on the senior management functions for Smith & Cromer under the SM&CR have been identified as follows:

Reference	Senior Manager Function	Individual(s)
SMF1	Chief Executive	Smith & Cromer's current CEO
SMF3	Executive Director	The current CEO and the 4 other executive directors at Smith & Cromer
SMF9	Chair	One of the two Non-Executive Directors at Smith & Cromer
SMF16	Compliance Oversight	Smith & Cromer's current CEO
SMF17	MLRO	Sam Carr (current Compliance Officer and MLRO at Smith & Cromer)

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**

Fitness and Propriety of Senior Managers

The SM&CR's prescribed responsibilities for Smith & Cromer have also been allocated and included in the relevant Senior Managers' Statements of Responsibilities (SoRs) that will be formally applicable at the start of the Regime.

Prescribed responsibility	Allocated to:
Performance by the firm of its obligations under the SM&CR including implementation and oversight	Smith & Cromer's current CEO
Performance by the firm of its obligations under the certification regime	Smith & Cromer's current CEO
Performance by the firm of its obligations in respect of notification and training of the conduct rules	Smith & Cromer's current CEO
Responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime	Smith & Cromer's current Chief Operating Officer (COO) who is one of the four other executive directors at Smith & Cromer

Next Steps

The Senior Managers are already well aware of the upcoming Regime through a combination of [CCL's 'SM&CR in a Nutshell'](#) video and a board briefing. Now, it is time for the formal acceptance from each Senior Manager of their SoR, including the prescribed responsibilities for the CEO and COO, alongside planning the roll out of tailored training for the senior managers.

The acceptance of the prescribed responsibilities is most acute for the CEO as he will pick up three of the four. He also needs to recognise the inherent possibility of tension as he will be expected to combine the independence required for compliance oversight with day-to-day executive responsibility for business performance. Acceptance will be evidenced by each Senior Manager signing their SoR that will commence from the start of the regime.

General fitness and propriety assessments have been done and recently refreshed under the Approved Persons Regime for all of the Senior Managers. So, Sam and her CEO agree what is now required is a training session for the Senior Managers on the conduct rules that will apply under the SM&CR, with particular focus on the Senior Manager Conduct Rules. All of the team will also attend later planned Conduct Rules training sessions that will further reinforce the generally applicable rules on conduct.

Given that the Senior Manager Conduct Rules focus on 'reasonable steps', the training will embrace a practical session on precisely what this might mean. The training will be delivered by a seasoned ex-practitioner training consultant who is well placed to tailor and deliver the session for an audience that is predominantly board level. Although the second non-exec director is not a Senior Manager, as he will be subject to Senior Manager Conduct Rule 4, it is considered prudent and inclusive to require both NEDs to attend the training session.

An additional one-to-one session will also be delivered to the CEO on how best to manage the potential for tension between business performance and compliance oversight responsibilities.

Given the importance of the training and the need for evidence of fitness and propriety, Sam will follow up the sessions with self-certifications from each of the attendees that they understand their responsibilities under the incoming Regime. Prior to this, Smith & Cromer decide to facilitate advice for all the attendees that feel it is necessary from both Smith & Cromer's retained legal advisers and retained compliance consultants. That way all of the Senior Managers will have every opportunity to become fully aware of exactly what they are signing up to.

KEY TAKEAWAYS

- 1 Gather evidence of the formal acceptance from the Senior Managers to take on their role and any prescribed responsibilities that are to be accepted.
- 2 Provide tailored training with an emphasis on what 'reasonable steps' is likely to mean for the Senior Managers. Consider facilitating legal and compliance advice on a one-to one basis too.
- 3 Carefully consider whether to include NEDs who are not going to be Senior Managers in any group training sessions.

Our case study will continue next month with 'Training for senior managers'

The next stage will be to select a trainer, design and then deliver tailored sessions for the Senior Managers.



TRAINING

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

eLearning | Face to Face | Train the Trainer