

Getting in touch

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Nathan specialises in complex regulatory issues for financial institutions and individual members of senior management. He conducts internal investigations, represents clients in regulatory investigations by the PRA, FCA, PSR and other enforcement agencies, and defends enforcement proceedings and litigation.



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Polly specialises in financial services law and regulation, advising both firms and individuals on contentious matters and the management of regulatory risk more generally. Having spent time on secondment to the FSA's Enforcement Division, she has a close understanding of how the regulator works in practice.



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Adam specialises in advising financial institutions and their senior management on complex regulatory issues including investigations. He has experience of working for the regulator, having spent over a year on secondment to the FCA's Enforcement & Financial Crime Division.

ENHANCED FIRMS

Senior MANAGERS AND CERTIFICATION REGIME

EXTENDED SENIOR MANAGERS AND CERTIFICATION REGIME OVERVIEW: ENHANCED FIRMS

(COMMENCEMENT DATE: 9 DECEMBER 2019)

Senior Managers

Senior Management Functions

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| <p>SMF1 – Chief Executive*</p> <p>SMF2 – Chief Finance Function*</p> <p>SMF3 – Executive Director</p> <p>SMF4 – Chief Risk Function</p> <p>SMF5 – Head of Internal Audit</p> <p>SMF7 – Group Entity Senior Manager</p> <p>SMF9 – Chair*</p> <p>SMF10 – Chair of the Risk Committee</p> <p>SMF11 – Chair of the Audit Committee</p> | <p>SMF12 – Chair of the Remuneration Committee</p> <p>SMF13 – Chair of the Nominations Committee</p> <p>SMF14 – Senior Independent Director</p> <p>SMF16 – Compliance Oversight*</p> <p>SMF17 – Money Laundering Reporting Officer*</p> <p>SMF18 – Other Overall Responsibility*</p> <p>SMF24 – Chief Operations Function</p> <p>SMF27 – Partner</p> <p>*Bold – required SMFs</p> |
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Prescribed Responsibilities

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| <p>A – Performance by the firm of its obligations under the Senior Managers Regime, including implementation and oversight</p> <p>B – Performance by the firm of its obligations under the Certification Regime</p> <p>B1 – Performance by the firm of its obligations in respect of notifications and training of the Conduct Rules</p> <p>C – Compliance with the rules relating to the firm’s Responsibilities Map</p> | <p>D – Responsibility for the firm’s policies and procedures for countering the risk that the firm might be used to further financial crime</p> <p>J – Safeguarding and overseeing the independence and performance of the internal audit function (in accordance with SYSC 6.2)*</p> <p>J3 – If the firm outsources its internal audit function, taking reasonable steps to ensure that every person involved in the performance of the service is independent from the persons who perform external audit</p> | <p>K – Safeguarding and overseeing the independence and performance of the compliance function (in accordance with SYSC 6.1)*</p> <p>L – Safeguarding and overseeing the independence and performance of the risk function (in accordance with SYSC 7.1.21R and SYSC 7.1.22R)*</p> <p>S – Managing the firm’s internal stress tests and ensuring the accuracy and timeliness of information provided to the FCA for the purposes of stress testing</p> |
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Impact

- Firms must vet fitness and propriety upon appointment
- Regulatory pre-approval required
- Regulators can attach conditions and/or time limits to approvals and can vary approvals
- Duty of responsibility applies
- New conduct rules apply and firms must provide training on these
- Statement of Responsibility must be produced for each SMF

*These roles should be allocated, where possible, to a Senior Manager who is a NED

**Note that the numbering is the FCA Handbook reference for Prescribed Responsibilities

Certification Functions

Certification Functions

Applies to functions that are not SMFs but involve, or might involve, a risk of “significant harm” to the firm or any of its customers. Territorial restriction applies (except for MRTs).

It includes:

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| <ul style="list-style-type: none"> → “Material Risk Takers” (MRTs) (as per remuneration rules under SYSC 19) → Former SIFs who are not SMFs (eg. significant management function (current CF29), proprietary traders and CASS oversight function (current CF10a)) | <ul style="list-style-type: none"> → Functions that are subject to qualification requirements (set out in the FCA’s TC sourcebook) → Client dealing function (expanded from current FCA CF30 function) → Algorithmic trading function | <ul style="list-style-type: none"> → Anyone directly or indirectly supervising or managing Certification Staff who isn’t an SMF |
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Impact

- Firms must assess fitness and propriety (for each separate certification function) upon appointment and at least annually thereafter
- If a firm cannot certify an individual as fit and proper to perform their role, the firm must remove the individual from the role
- New conduct rules apply and firms must provide training on these

→ FCA must be notified of any breach of conduct rules annually (if disciplinary action taken)

→ Regulatory references required

→ No regulatory pre-approval is required

→ Individual accountability to the FCA. A breach of conduct rules could result in a prohibition and a fine

Conduct Rules

Conduct Rules Staff

All other staff are also subject to conduct rules, except ancillary staff (ie. staff that do not perform a role specific to financial services). Territorial restriction applies.

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| <ul style="list-style-type: none"> ✓ Business staff ✓ HR team ✓ Compliance team ✓ Risk team ✓ Legal team | <ul style="list-style-type: none"> ✗ Receptionists ✗ Switchboard operators ✗ Post room staff ✗ Reprographics/print-room staff ✗ Property/facilities management ✗ Events management ✗ Security guards | <ul style="list-style-type: none"> ✗ Invoice processing ✗ Audio visual technicians ✗ Vending machine staff ✗ Medical staff ✗ Archive records management ✗ Drivers ✗ Corporate social responsibility staff | <ul style="list-style-type: none"> ✗ Data controllers/processors ✗ Cleaners ✗ Catering staff ✗ Personal assistants/secretaries ✗ IT support ✗ HR administrators/processors |
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Impact

- New conduct rules apply and firms must provide training on these
- FCA must be notified of any breach of conduct rules annually (if disciplinary action taken)
- Individual accountability to the FCA. A breach of conduct rules could result in a prohibition and a fine

→ Only applicable in relation to the firm’s regulated and unregulated financial services activities (including any related ancillary activities)

→ No regulatory pre-approval is required

→ No assessment of fitness and propriety is required