The Approved Persons Regime is Dead!
Long Live Accountability II

Well not quite yet but almost. On the 7th March 2016 the Senior Managers and Certification Regime came into force, with the aims of raising standards of governance, increasing individual accountability and to raise standards of conduct of key staff more broadly. In October 2015 the Treasury announced its intention to extend the regime to all financial services firms, including investment firms, asset managers, mortgage brokers and consumer credit firms, an additional 60,000 firms.

“..It is vital to establish a culture of accountability for conduct at the heart of a firm’s activities. The Senior Managers and Certification Regime, or SMCR, represents the formal embodiment of this idea.” Speech by Jonathan Davidson, FCA Director of Supervision - retail and authorisation, July 2016 “ Getting culture and conduct right- the role of the regulator”.

The extension of the Senior Managers & Certification Regime (SMCR), now called Accountability II, is going to have a significant impact at all levels within firms if it is to achieve the regulators key aims to “enhance individual accountability at the most senior levels, and enhance (firms) standards of conduct at all levels”. FCA confirm that the implementation date for the extension of the regime to all firms in the financial services sector, will be in 2018.

While that might seem sometime away, if you are not already in a strong position then the impact could be significant. At the heart of the new regime, alongside greater accountability are the regulator’s expectations for improved conduct and culture. We have supported numerous firms with the practical implementation of the current regime and have, along with them, gained some useful insights which will be of value to those coming under the scope of the regime during 2018.

While the FCA’s policy statement is not expected until Q2 this year there is much that can be thought about now and indeed all those currently within scope will tell you of the need to start planning early as there is always more to do than you might think. The change programme must be lead from the top and it’s also important to engage with your people so they are fully aware of how they will be individually impacted. You will need to identify those who will be Senior Managers and those within the scope of the Certification regime.

What does this mean for those in HR? HR professionals will need to understand their responsibilities and provide the business with the guidance and support it needs. You will need to implement and embed changes to their HR policies and current practices and consider this within the wider context of employment law. You will also need to build on your existing performance management regime and your Fit & Proper assessments, as well as providing training on the new Code of Conduct.

What does this mean for Senior Managers? Increased personal accountability is central to the new regime and will include the introduction of a statutory duty of responsibility. The introduction of Responsibility Maps and Statements of Responsibilities which clearly document who is responsible for what activities and risks will be used by the regulator to hold senior managers to account.

What does this mean for Boards? They are responsible for setting “the tone from the top” with regards to culture and conduct within their organisations. To achieve this they need a clear understanding of staff competence and behaviour. The competence measures and MI needed to provide you with assurance.
In FCA Business Plan 2016/17 the SMCR was linked to firm’s culture. So what should you be asking to enable you to embedded a culture that will support Accountability II?

- Will you have appropriate MI to gain oversight of the conduct of the firm and how this is taken into account when making decisions to ensure ‘reasonable steps’ have been taken (Duty of Responsibility).

- How will you describe your practice ‘effective oversight’ of the conduct of staff?

- How will you describe the key mechanisms, processes and policy by which all individuals to whom you delegate specific responsibility to are deemed competent?

- How (in practical terms) will you manage the certification process applicable to all certified staff in your business area, initially and then on an ongoing basis?

- Does the firm have any incentives or activities that may undermine the embedding of an appropriate SMCR culture? – remuneration, promotion, performance management.

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