

3<sup>rd</sup> April 2020

## Senior Managers and Certification Regime (SM&CR) and Covid-19: important updates

The FCA will not enforce the requirement on firms to submit updated Statements of Responsibilities (SoRs) if they need to make arrangements in direct response to the pandemic faced. This change is made to cover multiple sicknesses, or other temporary changes of Senior Manager responsibilities. These temporary updates do not need to be submitted via Form D.

Changes will last for a 12-week period; firms should then revert to the firm's previous arrangements unless the FCA release further guidance. Allocations (however temporary) should be clearly documented internally, so it is clear with whom responsibilities lie and can be easily accessed by the FCA if it is requested (now or in the future).

Firms' internal records should aim to keep a 'running commentary' of their Senior Manager population and their responsibilities during this period. This includes keeping Statements of Responsibilities, role profiles and Responsibilities Maps (where applicable) up to date.

The FCA also intend to issue a Modification by Consent to the 12-week rule:

- The 12-week rule permit Senior Managers to be covered by an individual that is not approved, where the absence is temporary or reasonably unforeseen and where the appointment is for less than 12 consecutive weeks.
- If temporary arrangements last longer than 12-weeks as a result of the crisis, firms can notify the FCA that they consent to a modification of the 12-week rule. In these cases, temporary arrangements can be extended up to 36 weeks.

Where possible, firms should continue to allocate another Senior Manager to stand in for the absent Senior Manager and should ensure that the allocation is appropriate and complies with FCA guidelines. Firms may decide to furlough their Senior Manager staff (despite potentially being key workers). Unless a furloughed Senior Manager is permanently leaving their role, he/she will retain their approval during their absence and will not need to be re-approved by the FCA upon return. The firm is still responsible for ensuring the Senior Manager is fit and proper.

**Individuals performing required functions such as Compliance Oversight and MLRO should only be furloughed as a last resort.** Other Senior Management Functions that are not 'mandatory' have greater flexibility in terms of furloughing (e.g. a Senior Manager responsible for a particular business line which is being temporarily suspended).

Further guidance from the 17<sup>th</sup> March 2020 is available here: <https://www.fca.org.uk/firms/information-firms-coronavirus-covid-19-response#smcr>

**Advice for firms:** If you have had to make temporary pandemic-centric adjustments at the Senior Management level due to matters such as sickness, furloughing or business line suspensions please contact Newgate for assistance as to how you may best utilise these temporary provisions from the FCA.

Access the update here: <https://www.fca.org.uk/news/statements/smcr-coronavirus-our-expectations-solo-regulated-firms>

