At BCS Consulting we only work with clients across financial services. Our portfolio includes a varied range of multinational and UK banks, smaller banks, insurance firms and payment and card companies. Across our 140+ strong team of permanent consultants, we have deep domain knowledge in Capital Markets, Retail and Corporate Banking, Risk and Finance.

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Senior Managers Regime

It's time to get implementing

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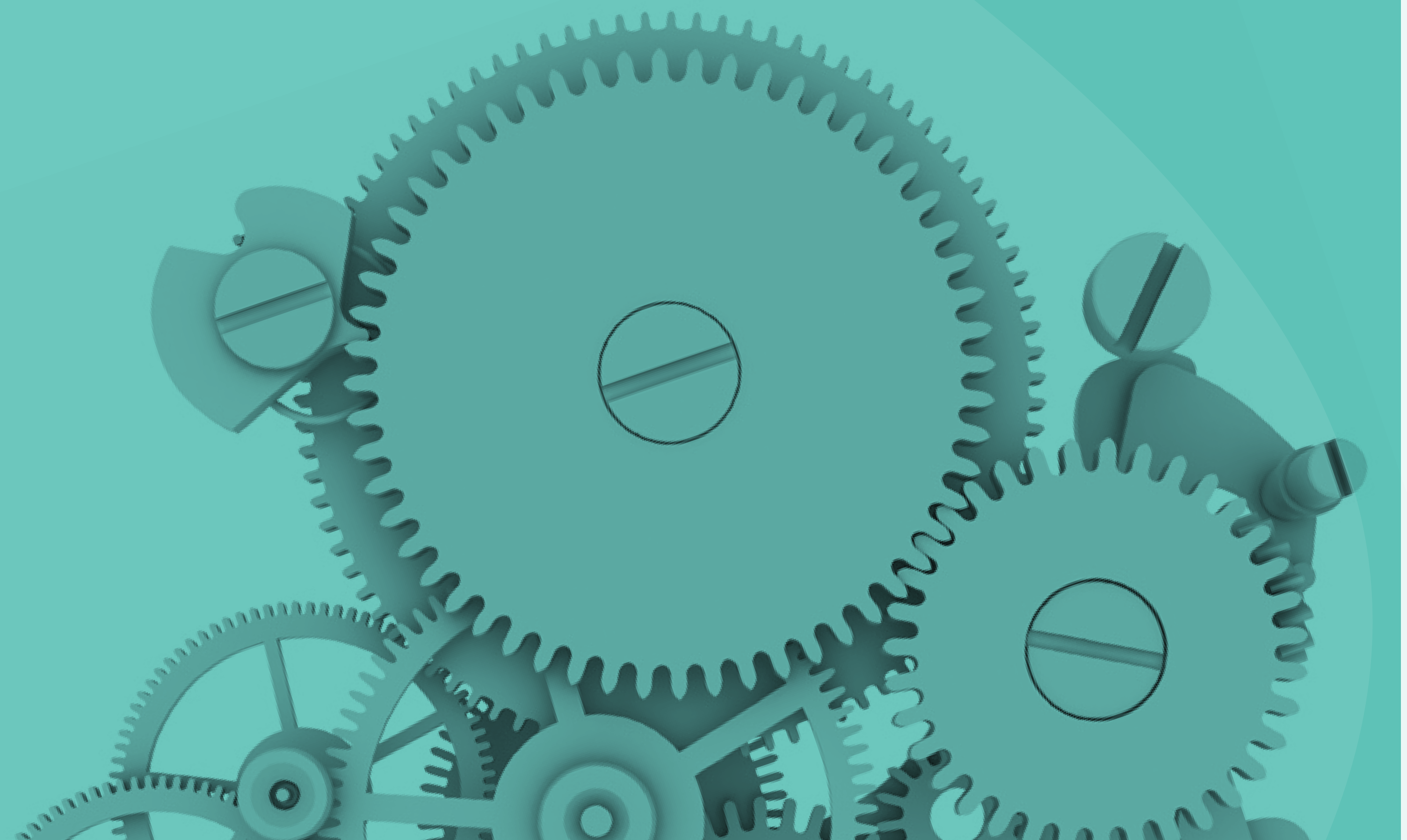
Ever since the FCA and PRA published their first joint consultation paper in July 2014, the regime has attracted a huge amount of boardroom attention. For individuals who fall within the Senior Managers Regime, this is absolutely understandable given the significance of what the regime is trying to achieve and the change in behaviour and rigour that it requires.



The regime, Strengthening Accountability in Banking, consists of three parts: Senior Managers Regime, Certification Regime and Conduct Rules.

So what are the real implications for authorised firms? Is it a short term fix or a fundamental change to the expectations firms have of their leadership? Unfortunately for Senior Managers, it is not just a case of implementing the changes and then getting on with their day job. Instead they face an ongoing challenge of instilling a cultural and behavioural shift across the organisation. Responsibility has shifted from collective ownership to individual accountability.

The Senior Managers Regime has attracted a huge amount of boardroom attention since it was first rolled out to deposit taking entities in March 2016. For individuals who fall within this part of the regime, it is absolutely understandable given the significance of what the regime is trying to achieve and the change in behaviour and rigour that it requires. Key areas of uncertainty that are driving ongoing discussions include:

- How best to allocate prescribed responsibilities and key functions, particularly where they cut across reporting lines and geographical locations
- How to illustrate the manner in which responsibilities are delegated and appropriately controlled
- How to evidence reasonable steps being taken and the vast extent of decision making that supports it
- What information is considered sufficient before a Senior Manager becomes 'informed' of a risk or issue that requires 'reasonable steps' to be taken
- The interaction and hand-offs between formal governance and individual accountability.

Whilst the above points are at the heart of the regime and essential for its success, Senior Managers are only a small population of the impacted individuals. The full regime captures a majority of the workforce for many firms and brings widespread operational changes, which must be designed and implemented to ensure compliance with the rules.

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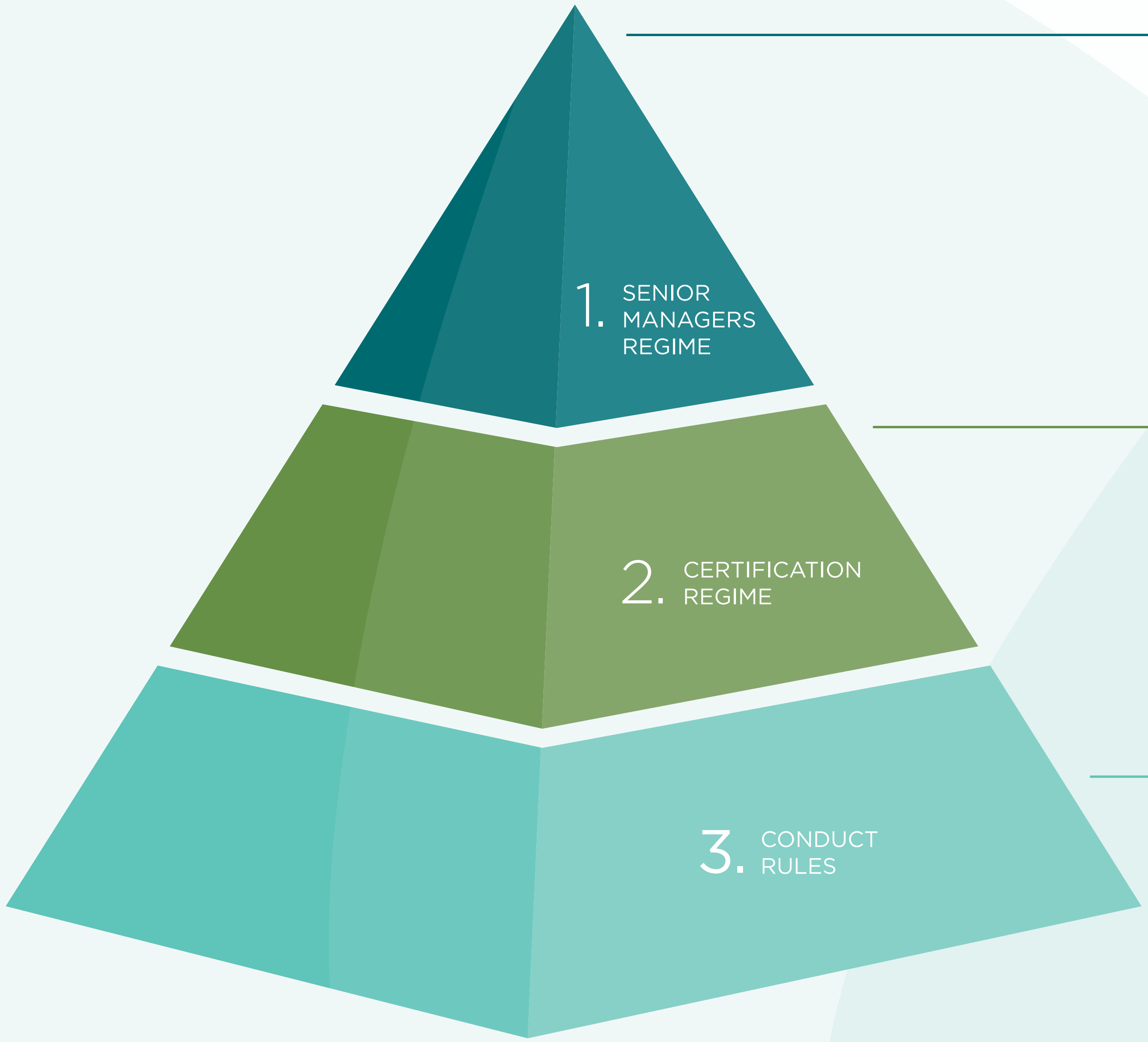
To better understand the implications for financial services organisations, we must first break down the new regime into its three key components.

These include:



Senior Managers Regime
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SENIOR MANAGERS REGIME

Context: Firms must allocate prescribed responsibilities and key functions to individuals and vet fitness and propriety. It is a criminal offence if their reckless misconduct leads to significant failings of the firm and they must prove reasonable preventative steps were taken.

Objective: To focus accountability on a narrower number of senior individuals than the preceding regime, the Approved Persons Regime (APR).

CERTIFICATION REGIME

Context: Firms must take reasonable care to ensure that employees performing a 'significant harm function' have been certified as fit and proper to do so.

Objective: To reduce the firm's risk of an individual causing significant harm to the firm or its customers.

CONDUCT RULES

Context: The existing Statements of Principle and Code of Practice for Approved Persons will be replaced by a set of Conduct Rules with a far wider application.

Objective: To ensure relevant staff are performing their current roles and responsibilities in line with the new set of conduct rules.

1. Senior Managers Regime

The overwhelming focus on this is most clearly illustrated by the fact that the entire regime is typically referred to as the 'Senior Managers Regime', rather than using its accurate name of 'Strengthening Accountability in Banking'. This is understandable given the tough rules it introduces and the public and media attention it has attracted, but it distracts us from the sizable changes that the Certification Regime and Conduct Rules introduce.

A key lesson learnt from the rollout of the regime to deposit taking entities is the significant time and negotiation it took to lock down the final Senior Manager population and the allocation of accountabilities. A clear positive that has emerged from this sometimes lengthy and challenging process is the increased clarity of organisational structures and governance arrangements in many organisations. However, to achieve this, the regime implementation needs to be driven from the top down, with Chairman or CEO sponsorship to bring the level of authority needed to drive such changes.

Once roles and accountabilities have been agreed, a fit for purpose operating model must be in place to support ongoing changes, which have proved to be a lot more frequent and widespread than many first imagined. This is a major task requiring the following:

- Documentation of a Senior Manager's Statements of Responsibilities (SoR) to ensure the collective set leaves no gaps or unintended overlaps
- Creation of a dynamically maintained and accurate Management Responsibilities Map (MRM), showing how top level governance and management interact and how responsibilities are discharged by Senior Managers, which may not align to existing management lines
- Design and implementation of the processes required to capture and agree any change in Senior Manager Function (SMF) or the allocation of Prescribed Responsibilities, supported by handover arrangements
- Close collaboration across HR, Compliance and Company Secretary to design how they will interact and support the processes, which will require joined up workflow to ensure all necessary steps and approvals are complete at the right time.

In addition to the above activities which are required to support Senior Managers, they must personally review (and enhance if required) their own governance and controls to ensure they are sufficient and align to their allocated regulatory accountabilities under the regime. This is critical for demonstrating 'reasonable steps' in discharging their responsibilities if a regulatory breach occurs within their area of accountability. The question they must ask themselves is what does 'sufficient' governance and control look like and what evidence can we produce to demonstrate reasonable steps?

> Implementation needs to be driven from the top down, with Chairman or CEO sponsorship to bring the level of authority needed to drive such changes.

Senior Managers Regime changes to be planned, designed and implemented

Process changes	System & tool changes	Culture, awareness & governance
Statement of Responsibilities (SoR) Processes for how Senior Managers responsibilities are agreed, documented and dynamically maintained	**Management Responsibilities Map (MRM)** Dynamically maintained tool summarising governance and management arrangements, including allocated accountabilities	**Committee effectiveness & structure** Committee structures clearly defined and documented, including membership and responsibilities
Onboarding & promotions Onboarding steps, checks and regulator approval for new Senior Managers and responsibility changes	**Templates & certificates** Standard templates for SoR, handovers and certificates to be embedded in each new process	**Overarching policies** Clearly documented and communicated policies to define the scope and remit of the regime
Handover arrangements Process to ensure role information and any regulatory concerns are documented when changing role	**Record keeping & data retention** Agreed approach to evidence decision-making and 'reasonable steps', retained for 7 years	**Training** All Senior Managers must understand how the rules apply, the behaviours they must adopt and how to adhere to the new processes and policies

2. Certification Regime

Whilst the Certification Regime has captured a very large population in many banks, these groups of individuals are often left largely unaware of the changes the regime will bring due to the primary focus on the Senior Managers.

This is understandable given that they will not be formally documenting their responsibilities for regulator approval, and the duty of responsibility and criminal offence do not apply. However, the introduction of annual fitness and propriety assessments, and the subsequent issue of certificates for each person within this population, requires a lot of careful consideration.

The identification of the certification population within deposit taking entities has proved to be a significant challenge. The rules remain open to interpretation, particularly when considering who is captured within the "dealing with clients", "significant management functions", "Material Risk Takers" and "manager of a Certified Person".

New controls must be defined and implemented to ensure individuals who meet the requirements do not start in their role prior to receiving a certificate. This can prove to be a significant challenge given that their role or position may not even change, but they can be caught by organisational restructuring, becoming a member of a relevant committee or by someone in their management line becoming certified.

Most firms are aligning their fitness and propriety assessments to the existing annual performance review processes, where the volumes allow them to do so. A decision must be made on whether to use existing assessments as an indication of competence or whether to design a more sophisticated competence assessment.

Our recommendation is that the identification of this complex and somewhat vague population, the supporting process changes and the new controls, are analysed, designed and implemented as a priority to enable them to be trialled and tested to demonstrate compliance with the rules. There will no doubt be teething problems given the number of complexities to consider and the volume of change it requires.

> The introduction of annual fitness and propriety assessments, and the subsequent issue of certificates for each person within this population, requires a lot of careful consideration.

Certification Regime changes to be planned, designed and implemented

Process changes	System & tool changes	Culture, awareness & governance
Onboarding & promotions Identification of Certified Person (CP) roles, onboarding steps and checks for new CPs	**HR system enhancements** Integrated Senior Manager / Certified Person identification and notifications, F&P assessment and outcomes, personal records of training and conduct	**Overarching policies** Clearly documented and communicated policies to define the scope and remit of the regime
Fitness & propriety (F&P) certification Manager assessment (and self-assessment) of suitability to perform role and responsibilities	**Record keeping & data retention** 6 year regulatory record, including F&P assessments, training and conduct	**Training** All individuals who are subject to the rules must be made aware and trained annually on how they apply

3. Conduct Rules

The Conduct Rules are arguably the least prescribed part of the regime, leaving the most freedom for firms to define how they apply and what constitutes a breach. The nature and scope of the changes means they must be even more carefully planned and implemented to avoid confusion and inconsistencies across the organisation.

Key decisions that firms must quickly make to determine how the rules will apply to their organisation, to set direction and to ensure time is not lost, include:

• How will suspected breaches be identified and what triggers the supporting processes?

• Who will determine whether a Conduct Rule has been breached and which rule has been breached, ensuring appropriate independence is maintained?

• Will a central operating model be required to ensure consistent interpretation?

• How, when and who will be responsible for identifying that the individual who breached a rule is a Senior Manager or Material Risk Taker?

• When will the reporting clock start ticking (which is only 7 days for Senior Managers and Material Risk Takers): once confirmation has been received that a rule has been breached and disciplinary action will be taken or when the disciplinary action is taken (which is likely to be a variable compensation adjustment which is only applied at year end)?

• Will annual remuneration processes be amended to enable variable compensation adjustment throughout the year?

• Where will Conduct Rule breaches be recorded and in what format will they be documented if future employers request a regulatory reference?

• What management information will be put in place to monitor and confirm adherence to the rules and to help identify risks or areas of potential breaches for investigation?

• And probably the toughest question to answer - Will the firm implement monitoring of adherence to Senior Manager Conduct Rules to enable the firm to report breaches (which will almost certainly result in personal fines and industry bans for the individual Senior Manager)?

The answer to each of these questions, which is likely to be unique to each firm, will be key to determining the scale of change required, the operating model impact and, more significantly, how the firm will instil the top to bottom cultural and behavioural changes that the regime aims to achieve.

How will suspected breaches be identified and what triggers the supporting processes?

Conduct Rules changes to be planned, designed and implemented

Process changes

Breach reporting

Identification and escalation of suspected breaches, and disciplinary action and regulator notification within specified reporting timelines

System & tool changes

HR system enhancements

Electronic capture of conduct and disciplinary records, notifications of 7 day reporting for Senior Manager and Material Risk Taker breaches

Conduct monitoring & MI

Metrics and KRIs to identify suspected conduct rule breaches and regime compliance MI

Culture, awareness & governance

Overarching policies

Clearly documented and communicated policies to define the scope and remit of the regime

Training

All individuals who are subject to the rules must be made aware and trained annually on their application

Conclusion

Boardroom level discussions and the nervousness the Senior Managers Regime brings will not go away any time soon, but it is critical that this does not distract from any implementation activities and the regime operations that are required to remain compliant across relevant firms. Changes must be clearly designed, built and embedded with adequate support for the teams and individuals who will have to perform the operations and ensure ongoing compliance with the rules. This requires the focus to be diverted from Senior Managers themselves, where a more than proportionate amount of time has already been spent debating accountabilities and analysing the impacts on the select group. In the early stages of the regime, it is much more likely that the regulators will come down hard on firms for non-compliance with the rules or for thinking they can just continue with current practices and shared accountability. It is highly unlikely that a Senior Manager will be found guilty of reckless misconduct leading to the insolvency of a firm.

For firms facing the challenge of meeting the rules, an acceleration of the implementation now will offer the advantage of spending more time training individuals and testing the changes. This is much more likely to result in the firm achieving the right design for their organisation and full compliance with the rules. It can also free up resources to support Senior Managers with the continuous improvement of governance and controls for their regulatory accountabilities under the regime. This cannot be a one-off activity and should only be a validation and improvement of what is already in place, although in reality it is unlikely to be this straightforward.

However the implementation and ongoing operations are approached, the volume of operating model change (including processes, systems, controls and management information) must not be underestimated. Instead, it must be prioritised and urgently progressed, learning lessons from the banks that have already implemented the required changes wherever possible.

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