



Call for Evidence: Senior Managers & Certification Regime

Financial Services Strategy

HM Treasury
1 Horse Guards Road
SW1A 2HQ

VIA EMAIL

Thursday, 1 June 2023

Dear Sir, Madam,

FIA EPTA members welcome the opportunity to respond to the HM Treasury [Call for Evidence](#) on the Review of the Senior Managers and Certification Regime (SM&CR).

This letter summarises our members' views on the efficacy of the regime as it stands, and proposals for how the regime could be improved in a way which helps maintain and enhance the UK's position as a leading global centre for financial services.

Generally, FIA EPTA members believe the SM&CR regime is working as intended and has brought renewed focus on individual accountability in financial services. However, our members wish to highlight some of the operational and administrative burdens that SM&CR brings to firms. Our members believe that this burden can be alleviated without having a material impact on the purpose behind the regime, and in a way which supports the Government's wider competitiveness agenda.

Specifically, our members' views fall into four areas:

- 1. Effectiveness of the Senior Managers Regime**
- 2. Effectiveness of the Certification Regime**
- 3. Effectiveness of the Conduct Rules**
- 4. Regime intended objectives and unintended consequences**

1. Effectiveness of the Senior Managers regime

Senior Manager appointments are subject to FCA approval. Unfortunately, the FCA has recently experienced a large backlog of Senior Manager approvals. This can cause issues within firms as it means that there may be delays for the firm in having the Senior Manager start working and adding value to the business. These delays can harm firms' competitiveness, and risk putting the UK at a disadvantage against other jurisdictions.

FIA EPTA members believe that the list of Senior Manager appointments that are subject to FCA approval should be reduced. FCA approval could be required for a limited number of executive functions only such as Chief Executive Officer, Executive Director, Compliance Officer and Money Laundering Reporting Officer. These functions would be subject to FCA approval in the usual way. However, for all other Senior Management Functions, the firms would only be required to notify the FCA of such an appointment. This could improve application processing time, and ease some of the administrative burdens that firms currently face by having to complete a 'Form A' for each new Senior Manager. For example, Senior Management Functions such as Chair of the Remuneration Committee (SMF 12) and Chair of the Nomination Committee (SMF 13), would not be subject to prior FCA approval as these positions are for discharging oversight functions (as opposed to executive functions at a firm's Board level) and therefore carry a lesser degree of risk.

This would help the UK maintain a proportional and risk-based regime, while helping firms operating here attract and quickly appoint diverse global talent.

2. Effectiveness of the Certification Regime

FIA EPTA members believe that the Certification Regime could be readjusted to be more proportionate in achieving its aim of reducing consumer harm and protecting market integrity. FIA EPTA members believe that several Certification Functions should be reviewed and potentially a number of functions could be removed (such as the algorithmic trading and significant management function certifications).

FIA EPTA members would argue that there is limited utility in having functions, such as algorithmic developers or compliance professionals, included as part of the Certification Regime or included in the public FCA Directory. Currently, firms are required to include many individuals on the register and in many cases those individuals will have no dealings with retail consumers. There is also the risk that the FCA Directory is misused by scammers and cold callers, in addition to the operational burden on firms to maintain the register. Reforming the FCA Directory in this way will limit costs, while allowing regulators to meet their objectives.

In addition, FIA EPTA members believe that the Certification Regime does not deliver against its aim to support the FCA in reducing consumer harm. Instead, we believe the FCA could tailor the SM&CR regime to focus on areas which do pose direct harm to consumers, namely individuals directly involved with retail clients and/or individuals who are required to possess qualifications as outlined in the FCA's Training & Competence Sourcebook. Aligning the Certification Regime with the aims of the Retail Distribution Review activities would be welcomed, and would help maintain appropriate safeguards while ensuring the Government can meet its competitiveness objectives.

3. Effectiveness of the Conduct Rules

FIA EPTA members do not believe the Conduct Rules have materially provided an uplift to existing best practices, as firms generally applied these expectations within existing policies and procedures prior to the SM&CR. The rules are viewed as very high level and only provide basic minimum requirements for an individual who works in financial services. FIA EPTA members believe that, historically, firms have tailored training programs which are more effective in promoting good conduct. Regulators and the Government could engage with firms to exchange views to ensure the Regime is proportionate and supports the UK's wider economic objectives.

4. Regime intended objectives and unintended consequences

FIA EPTA members believe that SM&CR is working as intended. However, the regime could be improved by removing some of the operational and administrative burdens that our members have highlighted in this letter. Our members' suggestions to reduce the number of Senior Management Functions that require FCA prior approval and to limit the number of Certification Functions to those roles which pose the most immediate risk to consumers, would alleviate some of the administrative burdens for firms without losing the regime's focus on protecting consumers and maintaining market integrity.

Additionally, FIA EPTA members believe that the regime – as it stands – may risk harming the UK's competitiveness as a global financial centre. FIA EPTA members maintain that some improvements are essential to maintain growth across the financial services sector and the UK's broader economy.

FIA EPTA members appreciate HM Treasury's consideration of our comments herein and welcome the opportunity to discuss further and provide additional input as required.

Kind regards,

/s/ Piebe Teeboom

Piebe Teeboom
Secretary General, FIA EPTA

FIA EPTA: ept@fia.org

London:

Level 28
One Canada Square, Canary Wharf
London, E14 5AB, United Kingdom

Amsterdam:

Gustav Mahlerplein 105 – 115 (27th floor)
1082 MS Amsterdam
The Netherlands

About FIA EPTA:

The FIA European Principal Traders Association (FIA EPTA) represents Europe’s leading Principal Trading Firms. Our members are independent market makers and providers of liquidity and risk-transfer for markets and end-investors across Europe. FIA EPTA works constructively with policy-makers, regulators and other market stakeholders to ensure efficient, resilient and trusted financial markets in Europe. FIA EPTA’s members are based in the Czech Republic, Germany, Ireland, The Netherlands, and the UK (~70% of our members have been licensed by the FCA). More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com