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Strengthening the link between seniority and accountability: the Senior Managers and Certification Regime

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Strengthening the link between seniority and accountability: the Senior Managers and Certification Regime

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- The Senior Managers and Certification Regime (SM&CR) promotes the safety and soundness of regulated financial services firms and financial stability by strengthening the link between seniority and accountability.
- It seeks to address the concern that some senior bankers avoided accountability during the financial crisis by claiming ignorance or hiding behind collective decision-making processes.
- At the core of the SM&CR is a requirement for firms covered by the regime to identify and set out the responsibilities of their most senior decision-makers, who are accountable for actions falling in their area of responsibility.
- To enhance governance at regulated firms, the SM&CR will be extended in full from December 2018 to cover insurers as well as banking institutions.

Overview

In order to promote individual responsibility and accountability, the Prudential Regulation Authority and Financial Conduct Authority together with HM Treasury have developed the Senior Managers and Certification Regime (SM&CR). This was rolled out to banking institutions from March 2016, and will be extended in full to insurers from December 2018.

The SM&CR comprises the following mutually supporting elements that aim to underpin good market practice:

- **Senior Managers Regime (SMR)**: the most senior decision-makers, or Senior Managers, at the firm must be assessed as fit and proper, have clearly defined responsibilities and be subject to enhanced conduct requirements, including the duty to take reasonable steps in fulfilling their responsibilities;
- **Certification Regime**: for key risk-taking employees below the top tier, firms need to determine on appointment and then certify annually that they are fit and proper to undertake their roles;
- **Regulatory references**: as part of the hiring process for senior decision-makers and key risk-taking employees, firms must exchange mandatory employment references, containing information on prior conduct; and
- **Conduct Rules**: all financial services staff are subject to minimum conduct standards requiring, among other things, that they act with integrity and due skill, care and diligence.

The effectiveness of these arrangements is supported by ongoing supervisory engagement.

Where elements of the regime have already been implemented, experience suggests that it is providing a positive discipline on firms and their key decision-makers.

At the same time, the SM&CR forms part of a broader set of measures to improve decision-taking and provide incentives for prudent risk-taking, and should therefore be viewed alongside assessments of board effectiveness, sustainable remuneration policies and strengthened market codes (see Box 1).

(1) The author would like to thank Simran Bains and Lizzie Gilbert for their assistance in preparing this article; and Christopher Gynn, William Hewitson, Anna Jernova, Orlando Fernandez-Ruiz, Alan Murray and Mark Walsh for their comments.

Introduction

During the global financial crisis, a number of major institutions failed as a result of unsustainable business strategies, and had to be supported through state-funded rescue packages. The aggregate costs of the crisis were substantial in terms of lost output and employment. A series of scandals ranging from mis-selling to benchmark manipulation further undermined trust in banking and financial markets. It has been estimated for the period 2009 to 2016 that major banks incurred conduct fines and costs in excess of US$320 billion worldwide.(2)

While some firms have failed and/or incurred significant fines, it was a common complaint post-crisis that few senior executives were held personally accountable for such outcomes. As the Parliamentary Commission on Banking Standards (PCBS) noted, senior bankers avoided accountability 'for failings on their watch by claiming ignorance or hiding behind collective decision-making'. Among its recommendations, the PCBS envisaged a new approach requiring all key responsibilities within a bank to be assigned among its top decision-makers, strengthening the ability of financial regulators to hold senior individuals accountable.(3)

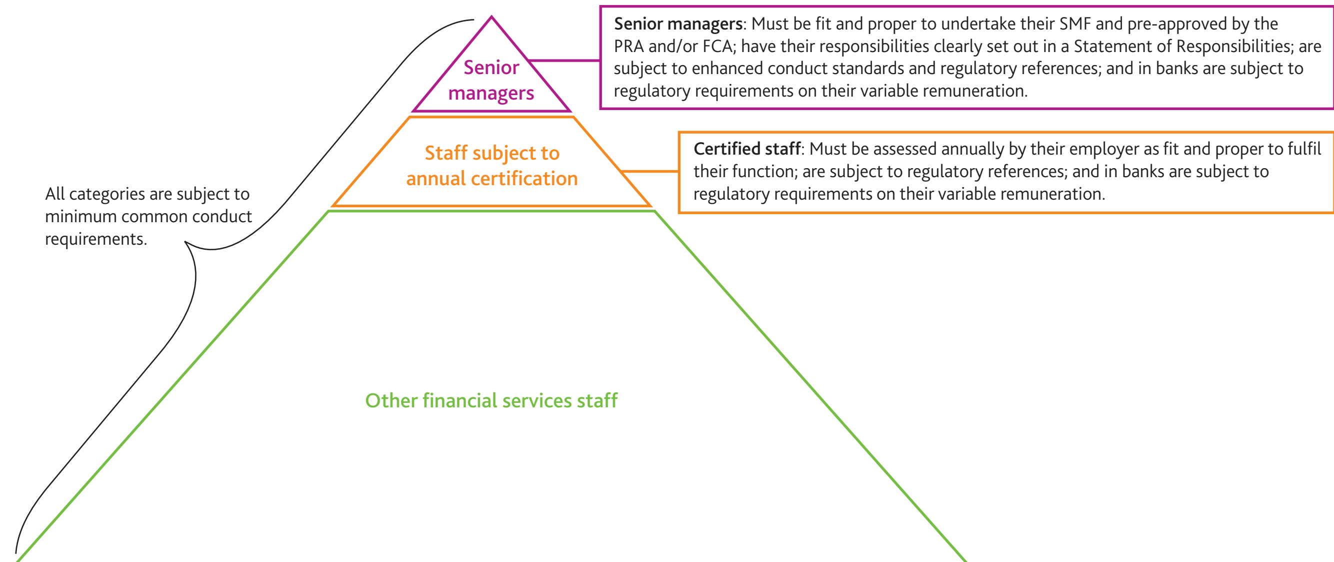
In response, HM Treasury, the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) worked together to create the SM&CR. This was introduced for banking institutions in March 2016, and will be extended in full to insurance firms from December 2018.(4) In the meantime, insurers have operated under the Senior Insurance Managers Regime, which includes some features of the SM&CR (including the need to set out clearly senior management responsibilities).(5) The FCA will additionally be extending the provisions of the SM&CR to FCA solo regulated firms from December 2019.

Close co-operation between the PRA and FCA is a key feature of the SM&CR given it promotes the PRA's safety and soundness and financial stability objectives and the FCA's objectives in respect of consumer protection and the integrity of the UK financial system.

The SMR strengthens the link between seniority and accountability through a clear allocation of responsibilities to a firm's most senior decision-makers. These individuals are referred to as 'Senior Managers'. Other employees are covered by other elements of the SM&CR, whose requirements take account of the relative importance of staff in a firm's decision-making processes (**Figure 1**). The Certification Regime requires firms to assess on appointment, and certify annually, that specific types of employee below Senior Manager (including those whose professional activities have a material impact on the risk profile of the firm) are also fit and proper.(6) A system of mandatory job references applies to employees subject to the Certification Regime, as well as Senior Managers, to limit the scope for individuals with a history of misconduct moving between firms unnoticed (the so-called 'rolling bad apples' phenomenon). Alongside these measures, a set of core Conduct Rules applies to all financial services staff.

(2) The Boston Consulting Group (2017) and Carney (2017).
(3) Parliamentary Commission on Banking Standards (2013).
(4) As the last step in the implementation process, the requirements on insurers to certify employees performing certification functions as fit and proper will come into effect in December 2019.
(5) The application of the SM&CR to banking institutions (banks, building societies, branches of overseas banks, credit unions and PRA-designated investment firms) followed the enactment of the Financial Services (Banking Reform) Act 2013. The extension of the regime to insurers was provided for in the Bank of England and Financial Services Act, 2016. Unless otherwise stated, this article outlines the position that will exist once the SM&CR is extended to insurers.
(6) Commission Delegated Regulation No. 604/2014 sets out the regulatory technical standards to identify categories of staff whose professional activities have a material impact on the risk profile of firms, also known as *material risk takers*.

Figure 1 Categories of professional staff under the SM&CR



Key features of the SM&CR

Senior Managers Regime

Under the SMR, a Senior Manager is an individual who holds one of a number of Senior Management Functions (SMFs), designated by the PRA and/or the FCA, and which are crucial to a firm's safety and soundness and promoting good conduct. These include executive SMFs, such as the Chief Executive Officer (CEO), those who head the finance, risk, compliance, operations and technology functions as well as those responsible for the firm's most important business lines. There are also oversight SMFs, covering non-executive directors (NEDs) of the board with particular responsibilities, such as the Chair, the Senior Independent Director and the chairs of the audit, nominations, remuneration and risk committees. Other NEDs do not perform SMFs unless they assume responsibilities associated with an SMF.

Senior Managers are, therefore, key decision-makers within the firm who operate at the most senior level. These individuals should be responsible, subject to the overall authority of the board, for managing or overseeing all the firm's key functions. There should not be any significant area of a firm's operations that does not have a responsible Senior Manager. A stylised distribution of SMFs for a bank is shown in **Figure 2**, although it is a matter for firms whether they choose to include particular senior executives on their board.

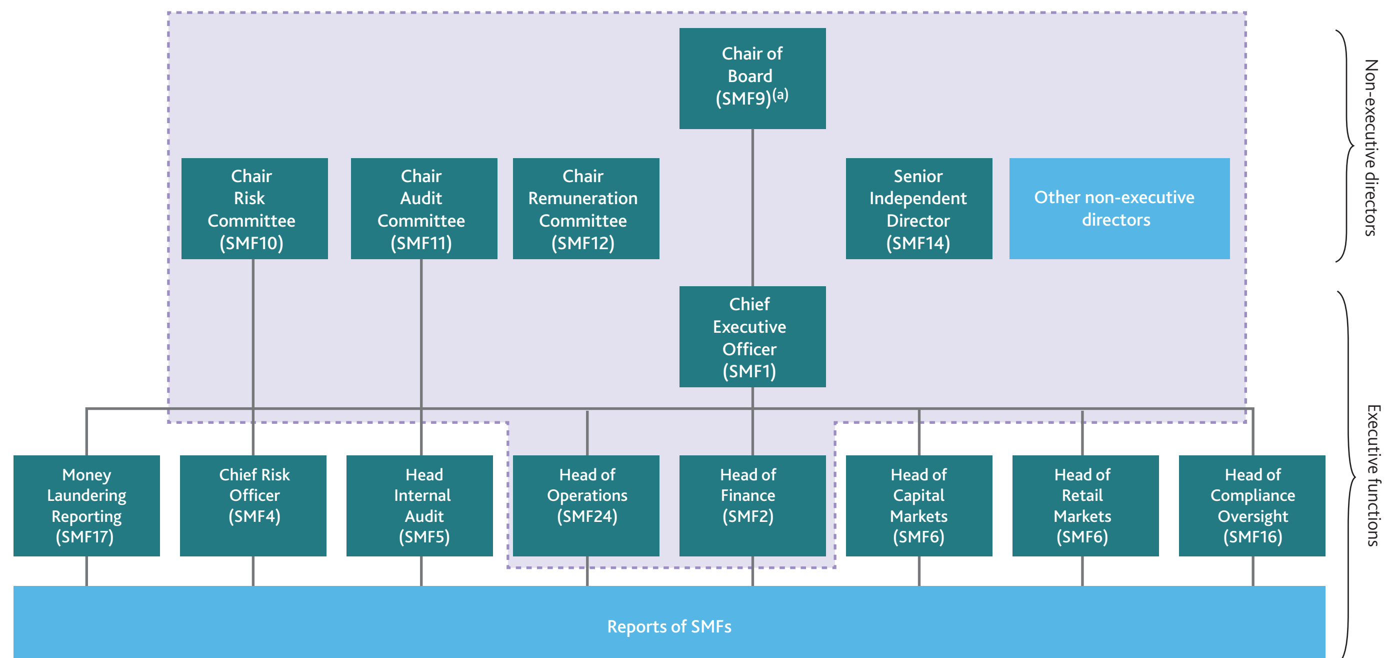
A list of potential SMFs is given in **Table A**. Firms need not, however, assign separate individuals to each SMF. A Senior Manager may, for example, perform more than one SMF. In the case of UK banks, building societies, designated investment firms and insurers, the only SMFs that need to be undertaken by separate individuals are the mandatory SMFs, that is the Chair, the CEO and 'Chief Finance'. However, credit unions need only have one person pre-approved by the PRA as a Senior Manager.

Some SMFs, such as a 'Chief Actuary' or a 'Chief Underwriting Officer', are relevant solely for insurers, and others, such as a 'Group Entity Senior Manager', are applicable only in particular circumstances (see below).

Identifying those who are key decision-makers within a firm is an important step. But an effective approach to individual accountability also requires clarity as to their specific responsibilities, a standard for determining whether such responsibilities are being undertaken appropriately and a means of testing professional competence. These are features that ought to form part of the normal management practices of a well-run firm. The SMR helps to underpin this in four ways:

(1) Each Senior Manager must have a **Statement of Responsibilities**, prepared by their employer, and shared

Figure 2 Stylised representation of Senior Management Functions



(a) The Chair of the Nomination Committee is a distinct Senior Management Function (SMF13). This may be held by a non-executive director, but may also be held by the Chair of the Board.

Box 1
Mitigating misconduct risk

Heightened requirements in respect of individual and collective accountability are key mechanisms for countering conduct risk and enhancing the safety and soundness of regulated financial institutions. But they are also part of a wider set of measures that can be deployed to achieve these objectives. Given the scale of misconduct observed in recent years, there have been both co-ordinated national and international actions to tackle such behaviours in a comprehensive manner. This is exemplified by the UK's Fair and Effective Markets Review (FEMR), and in the Financial Stability Board's (FSB's) misconduct action plan.

The FEMR was produced jointly by the Bank, the FCA and HM Treasury, and published in June 2015. The report analysed the way wholesale financial markets operate, with the aim of restoring confidence in the Fixed Income, Currency and Commodities (FICC) markets following a number of high-profile abuses. The review made 21 recommendations to improve fairness and effectiveness in FICC markets centred on the need to:

(1) raise standards, professionalism and accountability of individuals (including mandatory regulatory references to address the 'recycling' of individuals with poor conduct standards);

(2) improve the quality, clarity and market-wide understanding of FICC trading practices (centred on a new FICC Markets Standards Board);

(3) strengthen the regulation of FICC markets in the UK (such as extending elements of the SM&CR to a wider range of regulated firms active in FICC markets); and

(4) launch international action to raise standards in global FICC markets (agreeing a single global FX Code and enhanced processes and guidance around benchmarks).

While FEMR necessarily identified a number of required regulatory changes, it also underlined that industry-led action was integral to better market conduct. The UK authorities have therefore used their convening power to encourage market participants to develop standards of market practice that are well understood, widely adopted and that keep pace with market innovation.

Subsequently, the FICC Markets Standards Board was established in 2015 as an industry-led body to help raise standards of conduct in global wholesale markets, thereby making those markets more transparent, fair and effective.

Similarly, the Banking Standards Board (BSB), which began operations in 2015, was set up to promote high standards of behaviour and competence across UK banks and building societies. The BSB is also developing guidance for its members, and published its 'Statement of Good Practice 1 — Certification Regime: Fitness and Propriety Assessment Principles' in 2017,[1] drawing on the experience of its members in implementing this component of the SM&CR.

Recognising that the scale of conduct failings in some institutions had risen to a level with the potential to create systemic risks, the FSB outlined a misconduct action plan in 2015. Key elements in that plan, which was finalised in mid-2018, included:

- standards and codes of behaviour, such as the FX Global Code and reforms to benchmark-setting practices;
- the toolkit of measures to address misconduct in wholesale markets developed by the International Organization of Securities Commissions, based on national approaches;
- the FSB's guidance on the use of compensation tools to promote good conduct, which will be followed up by recommendations on national data collection on compensation and conduct; and
- an FSB toolkit of measures that could be used to mitigate the conduct risks arising from the cultural drivers of misconduct; the absence of individual responsibility and accountability; and the rolling bad apples phenomenon.

(1) Banking Standards Board (2017).

with the regulators, clearly identifying the activities for which they are responsible.

(2) Firms should prepare a **Management Responsibilities Map**, containing information on the various Senior Managers and their responsibilities, and details of the firm's governance arrangements and structure.

(3) The PRA and FCA set specific **Conduct Rules** for Senior Managers that are additional to those applicable to other staff (see below). Senior Managers for example must take reasonable steps to ensure the activities of the firm for which they are responsible are controlled effectively, and that these comply with relevant regulatory requirements. Where responsibilities are delegated, a Senior Manager must still exercise effective oversight over the discharge of these responsibilities.

(4) Senior Managers must be assessed as **fit and proper** by their firms, and the PRA and/or the FCA who must approve them prior to appointment. The fitness and propriety tests applied require an assessment of personal integrity, financial soundness and professional competence.

Some responsibilities are inherent in particular SMFs. The individual performing the function 'Chief Risk', for example, should be the most senior executive with responsibility for assessing and managing risk across the business. There is, in addition, a set of Prescribed Responsibilities that the PRA and FCA require firms to assign among relevant senior individuals to ensure that key cross-firm responsibilities are owned by at least one individual. These include responsibility for the firm's performance of its obligations under the Senior Managers Regime, for the independence and effectiveness of the firm's approach to whistleblowing, and for overseeing the adoption of the firm's culture — reflecting the importance within regulated firms of setting the correct tone from the top and protecting individuals who raise concerns.

Where it is appropriate, such as a job-sharing arrangement, a firm may be allowed to have more than one individual performing a given SMF. However, in such cases, each individual remains accountable for all the responsibilities attached to that SMF, to avoid situations where 'splitting' an SMF could lead to ambiguity in how responsibility is allocated. An exception to this occurs in the case of the function 'Chief Operations', provided that the split accurately reflects the relevant firm's organisational structure. This may, for example, occur where two equally senior individuals have distinct responsibility for internal operations and technology respectively.

It is important for Senior Managers to understand the business or oversight functions for which they are responsible. While those holding executive SMFs are unlikely to be experts in all aspects of a complex financial services business, they should understand and inform themselves about the business sufficiently to understand the risks of trading, credit and other relevant business activities. So, for example, if a business is experiencing particularly volatile profits, or funding requirements beyond those reasonably anticipated, a Senior Manager should seek explanations from their reports.

Table A Senior Management Functions

Executive SMFs, subject to pre-approval by PRA (with FCA consent)
Chief Executive (SMF1)
Chief Finance (SMF2)
Executive Director (SMF3)
Chief Risk (SMF4)
Head of Internal Audit (SMF5)
Head of Key Business Area (SMF6)
Group Entity Senior Manager (SMF7)
Credit Union Senior Manager (credit unions only) (SMF8)
Head of Overseas Branch (incoming non-EEA branches only) (SMF19)
Chief Actuary (SMF20)
With Profits Actuary (SMF20a)
Chief Underwriting Officer (SMF23)
Underwriting Risk Oversight Function (Lloyd's) (SMF23a)
Small Insurer Senior Management Function (SMF25)
Head of Small Run-Off Firm (SMF26)
Chief Operations (SMF24)
Executive SMFs requiring pre-approval by FCA only
Chair of With Profits Committee (SMF15)
Compliance Oversight (SMF16)
Money Laundering Reporting (SMF17)
Other Overall Responsibility (SMF18)
EEA Branch Senior Manager (SMF21)
Other Local Responsibility (SMF22)
Conduct Risk Oversight (Lloyds) (SMF23b)
Partner (SMF27)
Oversight SMFs, subject to pre-approval by PRA (with FCA consent)
Chair of the Governing Body (SMF9)
Chair of the Risk Committee (SMF10)
Chair of the Audit Committee (SMF11)
Chair of the Remuneration Committee (SMF12)
Senior Independent Director (SMF14)
Oversight SMFs requiring pre-approval by FCA only
Chair of the Nomination Committee (SMF13)

In judging whether someone performing an SMF has complied with the Senior Manager Conduct Rules, it is necessary to assess whether the Senior Manager had taken reasonable steps to, among other things: ensure the business of the firm for which they are responsible is controlled effectively and that it complies with relevant regulatory requirements; and/or any delegation is to an appropriate person and overseen effectively. Senior Managers must also disclose appropriately any information of which the FCA or PRA would reasonably expect notice.

The SM&CR has strengthened the ability to take enforcement action against individuals if warranted. In particular, Senior Managers:

- who breach the Conduct Rules, including by failing to take reasonable steps to prevent or stop a regulatory breach by staff for whom they are responsible, can face sanctions (eg censure, fines and industry bans); and

- working at banks could be found criminally liable under the Financial Services (Banking Reform) Act 2013 if they take, or fail to take, decisions that cause the failure of a firm (being aware that such (in)action may cause the failure of the bank) and their conduct is far below what could reasonably be expected in the circumstances.

The SM&CR incorporates significant flexibility, and can be applied to firms possessing a variety of administrative and governance structures. Moreover, application of the regime does not depend on job titles, given that usage varies between firms. So in identifying an individual as 'Chief Operations', for example, a firm should identify the senior executive that has overall responsibility for managing the internal operations and technology of a firm. Such an individual may have the title Chief Operating Officer in some firms, but not in others. If someone with the title Chief Operating Officer reports to another more senior executive who is directly responsible to the CEO, the latter person would normally be judged as performing the 'Chief Operations' function.

Another example of flexibility is the designation of certain individuals, where appropriate, as a 'Group Entity Senior Manager'. This may occur where a regulated firm is part of a group. In such cases, there may be individuals who are employed by another group entity, but who nonetheless exercise significant influence over the operations of the regulated firm. For example, the board of a regulated subsidiary may include as NEDs one or more individuals who also hold a senior executive position elsewhere in the group. Due to their role within the group, such NEDs may occupy a position of influence exceeding that usual for a NED, which may warrant them being classified as a 'Group Entity Senior Manager', ensuring their role in the management of the regulated firm is recorded.

Certification

The Certification Regime requires firms to assess annually and certify the fitness and propriety of key risk-taking employees (other than SMFs) who are potentially capable of causing significant harm to the firm or its customers. Employees subject to the Certification Regime do not require approval by the PRA or FCA.

A number of individuals subject to certification will also be material risk-takers under the Capital Requirements Directive remuneration rules, and therefore will additionally be subject to regulatory requirements in respect of their variable remuneration (see below).

Regulatory references

Individual accountability can be undermined where individuals can gain employment at another firm without disclosing previous misconduct. If individuals are mobile but their conduct history is not, a significant safeguard is lost, and the problem of 'rolling bad apples' exists. For this reason the UK's Fair and Effective Markets Review[7] recommended mandatory regulatory references to help firms prevent the 'recycling' between firms of individuals with a poor conduct record.

To implement this, the PRA requires that firms request references when assessing the fitness and propriety of candidates to perform an SMF or Certification Function as well as NEDs not performing SMFs. Regulatory references must cover the previous six years of employment. It is a requirement on PRA-regulated firms receiving a reference request that they provide all information relevant to the hiring firm's assessment of the candidate's fitness and propriety.

Conduct Rules

A key component of the SM&CR is that all financial services staff in banks and insurers must meet core conduct standards, while those who are designated Senior Managers are subject to additional standards. The general Conduct Rules, among other things, require individuals to act with integrity, act with due skill, care and diligence and be open and co-operative with the FCA and the PRA.

SM&CR as part of a wider package for decision-making

Experience of the SM&CR to date suggests that it is improving governance among banking institutions through increased clarity of individual responsibilities, better-documented governance arrangements (especially in large, complex banking groups), improved challenge and oversight by boards, and more effective supervisory engagement. It also allows firms to carry out scenario-testing of hypothetical situations to see if they can readily identify the accountable SMF, and assess whether they have taken reasonable steps in ensuring the right systems, controls and training are in place.

For supervisors, tools such as Statements of Responsibilities and Management Responsibilities Maps support discussions on individual accountability. In cases where remedial actions are required, supervisors can see that these are clearly allocated and documented in Statements of Responsibilities.

The SM&CR also provides a valuable supervisory tool where new market practices and risks emerge. In such cases, the PRA can remind firms of the need for appropriate oversight by one or more Senior Managers. A recent example is the PRA's *Dear CEO Letter* on exposures to crypto-assets, which noted

(7) Bank of England, FCA and HM Treasury (2015).

Box 2
UK corporate governance arrangements

The UK has an established corporate governance framework applicable to companies operating across the economy, including PRA and FCA-regulated financial services firms. Key statutory provisions are found in the Companies Act 2006, which governs the constitutional arrangements that firms may adopt and also the duties of company directors.
In addition, for listed companies, the Financial Reporting Council's UK Corporate Governance Code sets standards of good practice in relation to corporate purpose and culture, board leadership and effectiveness, remuneration, and shareholder and stakeholder relations.(1) All companies with premium listed equity shares in the UK are required under the Listing Rules to report in their annual report and accounts on how they have applied the Code.

The Code contains broad principles and more specific provisions. In terms of roles and responsibilities, these include: the responsibility of the chair for leading the board and their capacity for independent, objective judgement; the clear division of responsibilities between the leadership of the board and the executive leadership of the company's business; and the importance of non-executive directors offering constructive challenge.

Listed companies are required to report, as part of their annual report and accounts, on how they have applied the main principles of the Code. They are required to state that they have complied with the Code's provisions, or provide an explanation if they have not. The quality of disclosures is viewed as a key element of the approach, even when companies are complying with all the provisions of the Code. The PRA's requirements in respect of board responsibility and individual accountability are applicable to the firms that it regulates. In setting these requirements, the PRA seeks to supplement and build on, but not modify, the Code's provisions.

(1) Financial Reporting Council (2018).

that a Senior Manager should be involved in reviewing and signing off the risk assessment framework for any planned exposures.(8) Similarly, the PRA has noted its expectation that firms engaged in algorithmic trading should identify a Senior Manager with responsibility for this activity.(9)

Collective versus individual responsibility

The PRA expects the boards and management of regulated firms to run the business prudently, consistent with the firm's own safety and soundness and the continuing stability of the financial system. In doing this, individual accountability should complement collective decision-making rather than being a substitute for it. It is for the board to set strategy, effective risk appetite and high-level control environment for the firm, and to oversee the activities of executive management. But in fulfilling these functions, the board is reliant on individuals to provide it with information and to execute its decisions. A clear allocation of responsibilities within the firm should therefore assist the board.

Remuneration

For a number of institutions, past failure to place sufficient emphasis on individual accountability was compounded by a tendency to reward high short-term profits with bonuses that were unrelated to risk-taking and to the long-term health of the firm, thereby encouraging excessive risk-taking. In the words of the PCBS, rewards had been paid for failure.(10) Recently, enhanced remuneration policies for banks and accountability requirements have reinforced each other in restoring trust to the financial sector.

Pre-crisis, there were no restrictions on how variable remuneration was awarded, the form it took and the period over which it was paid. Subsequently, material risk-takers (which includes Senior Managers) in banks have been subject to rules which determine the structure of variable remuneration (**Figure 3**).(11)

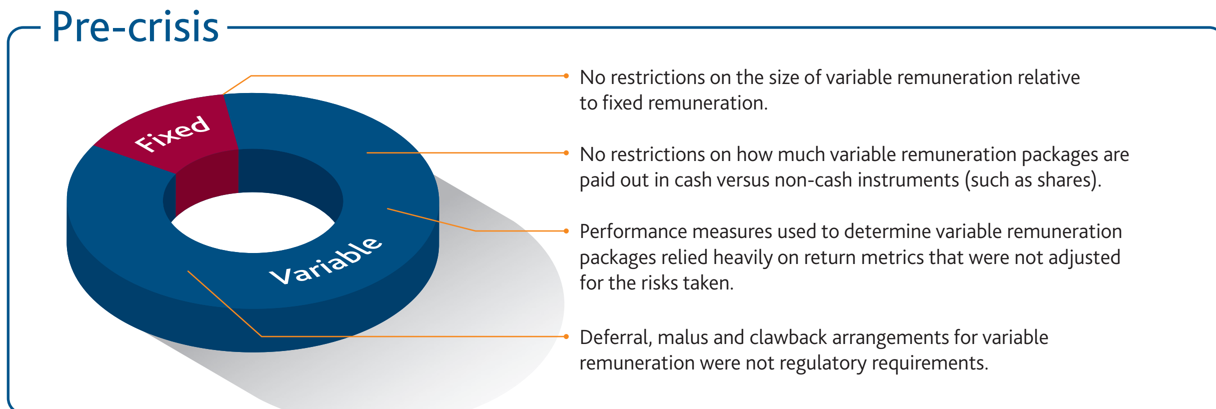
For large banks, there is now a requirement that at least 50% of any variable remuneration should be paid in non-cash elements (eg shares). Payment in shares or similar instruments promotes a closer alignment between the longer-term interests of senior employees and shareholders. The incentives supporting better conduct are reinforced by requiring that at least: 40% of the total variable remuneration awarded should be deferred, or 60% in the case of senior executives or for those with total variable remuneration of £500,000 or higher. Deferral must take place over a period of between three and seven years, and should be capable of downward adjustment (through malus or clawback as appropriate) to take account of instances of misconduct, risk management failings or downturns in financial performance. In the case of Senior Managers, deferral must take place over seven years.(12)

International work on accountability

The need to strengthen governance through accountability underpinned by clarity of roles and responsibilities is

(8) Bank of England (2018a)
(9) Bank of England (2018b).
(10) Parliamentary Commission on Banking Standards (2013), page 17.
(11) There are specific requirements for banks with assets exceeding £15 billion.
(12) Angeli and Gitay (2015).

Figure 3 Remuneration rules in the banking sector



Post-crisis

The following rules have been introduced for the Senior Managers and other material risk-takers in banks with assets exceeding £15 billion.

Fixed

At least 60% deferred

40% or less vests immediately

Variable

2:1 ratio

Bonus cap

The bonus cap sets a maximum variable to fixed remuneration ratio of 2:1 with shareholder approval. In the absence of such approval, the ratio is 1:1.

50:50

Cash/non-cash

All variable remuneration composed of no more than 50% cash, with at least 50% non-cash.

Deferral and malus

While at least 40% of the total variable remuneration awarded to material risk-takers should be deferred, this figure rises to at least 60% in the case of senior executives or for those with total variable remuneration of £500,000 or higher. All deferred remuneration, which has not yet vested, can be subjected to malus to take account of instances of misconduct, risk management failings, or downturn in financial performance.

Performance metrics

Balanced suite of performance metrics contribute to *ex-ante* adjustment of all variable remuneration.

- Risk-adjusted return metrics
- Prudential metrics
- Strategic metrics
- Conduct metrics
- Non risk adjusted return metrics

Clawback

All variable remuneration is subject to clawback. This is the process whereby banks are able to take back vested variable remuneration as a result of misconduct or risk management failings.

supported by the work of international regulatory bodies and by emerging practice in other countries.

In its 'Corporate governance principles for banks', the Basel Committee on Banking Supervision stated that a board should establish and be satisfied with a bank's organisational structure, and that it should clearly lay out key responsibilities for the board and for senior management.(13) Similarly, the International Association of Insurance Supervisors in its 'Insurance Core Principles' states that the governance framework of an insurer should define the roles and responsibilities of persons accountable for the management and oversight of an insurer.(14)

More recently, the Financial Stability Board in its report 'Strengthening governance frameworks to mitigate misconduct risk' provided a toolkit for firms and supervisors outlining options for addressing the cultural drivers of misconduct, strengthening individual responsibility and accountability, and countering the 'rolling bad apples' phenomenon.(15) In doing so, it noted that identifying key responsibilities and clearly assigning them to holders of various positions within a firm promotes individual accountability and increases transparency both within the firm and to relevant stakeholders.

A number of overseas jurisdictions are considering introducing reforms that incorporate features of the SM&CR or have recently done so. The Hong Kong Securities and Futures Commission implemented its Manager-in-Charge Regime in 2017, while Australia's Bank Executive Accountability Regime became operational in July 2018. Both approaches require that responsibilities are attached to identified senior managers.

The Central Bank of Malaysia issued a Discussion Paper on accountability in February 2018, referencing features similar to those in the SM&CR.(16) In addition, the Central Bank of Ireland is considering the merits of an accountability regime similar to the SM&CR,(17) while the Monetary Authority of Singapore proposed in April 2018 guidelines to strengthen individual accountability of senior managers and raise standards of conduct in financial institutions.(18)

In the European Union, the European Banking Authority (EBA) has produced guidelines placing more emphasis on the duties and responsibilities of the management body for risk oversight.(19) These seek to strengthen the status of the risk management function, enhance the information flow between the risk management function and the management body and promote effective monitoring of risk governance by supervisors. In addition, the EBA and the European Securities and Markets Authority have published their joint guidelines to assess the suitability of members of management bodies and key function holders.(20)

Conclusion

The SM&CR provides a flexible approach to individual accountability that complements the collective accountability of the board and executive committees. Where elements of the regime have already been implemented, experience suggests that it is providing a positive discipline on firms and their key decision-makers. Having implemented this approach for banking institutions, it will be extended fully to insurers from December 2018. Growing interest globally in promoting individual accountability suggests others see merit in adopting or exploring this approach. As with other major areas of policy development, it will be important to learn lessons and evaluate the performance of the SM&CR going forward.

(13) Basel Committee on Banking Supervision (2015).
(14) International Association of Insurance Supervisors (2017).
(15) Financial Stability Board (2018).
(16) Bank Negara Malaysia (2018).
(17) Cunningham (2018).
(18) Monetary Authority of Singapore (2018).
(19) European Banking Authority (2017).
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