

Improving individual accountability: Workshops for credit unions

Autumn 2015

Topics to be covered

- The Senior Managers Regime
- Grandfathering (including demo of the electronic form)
- Example Maps and Statement of Responsibilities
- Certification Regime
- Conduct Rules
- Duty of Responsibility
- Criminal Records Checks
- Q&A

Background

A new regime for individual accountability – why?

- Parliamentary Commission on Banking Standards (PCBS) was set up in 2012 to look into professional standards, culture and corporate governance in the banking sector, following failings in conduct and culture within banks
- PCBS was chaired by Andrew Tyrie (Chair, Treasury Select Committee), and included Lord McFall and Archbishop of Canterbury
- PCBS issued their final report in June 2013. The report's recommendations included the creation of a new Senior Persons Regime.

Background

A new regime for individual accountability – why?

- The report's recommendations were passed into law through the passing of the Banking Reform Act in December 2013, which created the new Senior Managers and Certification Regime (SM&CR).
- Parliament decided that the new regime would apply to all deposit takers (i.e. banks, building societies and credit unions) and the nine PRA regulated investment firms.
- The PRA and FCA published our final rules in July 2015.
- Our new rules are risk based and proportionate, e.g. a flexible regime for the credit union sector.

Senior Managers Regime – targeted outcomes

Individuals:

- Are fit and proper
- Have clear accountability
- Operate to minimum standards of conduct
- Are held to account

Firms:

- Embed an accountability culture
- Take primary responsibility for fitness and propriety of their staff

The market:

- External confidence that firms have the right people in the right roles, in the interests of consumers and markets

Implementation timeline

By commencement, credit unions must have:

- Submitted their grandfathering notifications
- Identified individuals subject to certification

Senior Managers Regime commences 7 March 2016

Final rules effective 8 July 2015

Grandfathering notifications to be submitted by 8 February 2016

*Conduct rules apply to Senior Managers and Certified Persons
Certified Persons to be identified.*

Electronic grandfathering forms available

June July Aug. Sept. Oct. Nov. Dec. Jan. Feb. March April

2016

PRA/FCA approach to the transition

- Credit unions are required to submit grandfathering notifications by **8 February 2016**.
- These notifications should provide details of each current Significant Influence Function who will grandfather to the new regime.
- Credit unions must submit a Statement of Responsibility for each individual grandfathering.
- Credit unions must also provide their Responsibilities Maps with their grandfathering notifications.

PRA/FCA approach to the transition

- Credit unions can either submit these forms via paper to the PRA or submit electronically via Connect.
- We strongly recommend that credit unions use the electronic form as it will:
 - Make the grandfathering notification easier to complete;
 - Display all individuals eligible for grandfathering and the functions they can grandfather to; and
 - Auto-generate a Statement of Responsibilities template for each prospective senior manager.

Senior Management Functions (SMF) list

Senior Management Function		Approval required
SMF1	Chief Executive Function	FCA & PRA
SMF2	Chief Finance Function	FCA & PRA
SMF3	Executive Director	FCA only
SMF4	Chief Risk Function	FCA & PRA
SMF5	Head of Internal Audit	FCA & PRA
SMF6	Head of key business area	FCA & PRA
SMF7	Group Entity Senior Manager	FCA & PRA
SMF8	Credit Union SMF	FCA & PRA
SMF9	Chairman	FCA & PRA
SMF10	Chair of the Risk Committee	FCA & PRA
SMF11	Chair of the Audit Committee	FCA & PRA
SMF12	Chair of the Remuneration Committee	FCA & PRA
SMF13	Chair of the Nomination Committee	FCA only
SMF14	Senior Independent Director	FCA and PRA
SMF16	Compliance Officer	FCA only
SMF17	Money Laundering Reporting Officer	FCA only
SMF18	Other Overall Responsibility function	FCA only

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SMF7	Group Entity Senior Manager	FCA & PRA
SMF8	Credit Union SMF	FCA & PRA
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SMF11	Chair of the Audit Committee	FCA & PRA
SMF12	Chair of the Remuneration Committee	FCA & PRA
SMF13	Chair of the Nomination Committee	FCA only
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Prescribed Responsibilities applicable to credit unions

Reference	Prescribed Responsibility	PRA/FCA
A)	Responsibility for the firm's performance of its obligations under the senior management regime	PRA&FCA
B)	Responsibility for the firm's performance of its obligations under the certification rules	PRA&FCA
C)	Responsibility for compliance with the firm's obligations in relation to its management responsibilities map	PRA&FCA
D)	Overall responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime	FCA
E)	Responsibility for the allocation of all prescribed responsibilities	PRA
AA)	Responsibility for implementing and management of the firm's risk management policies and procedures	PRA
BB)	Responsibility for managing the systems and controls of the firm	PRA
CC)	Responsibility for managing the firm's financial resources	PRA
DD)	Responsibility for ensuring the governing body is informed of its legal and regulatory obligations	PRA

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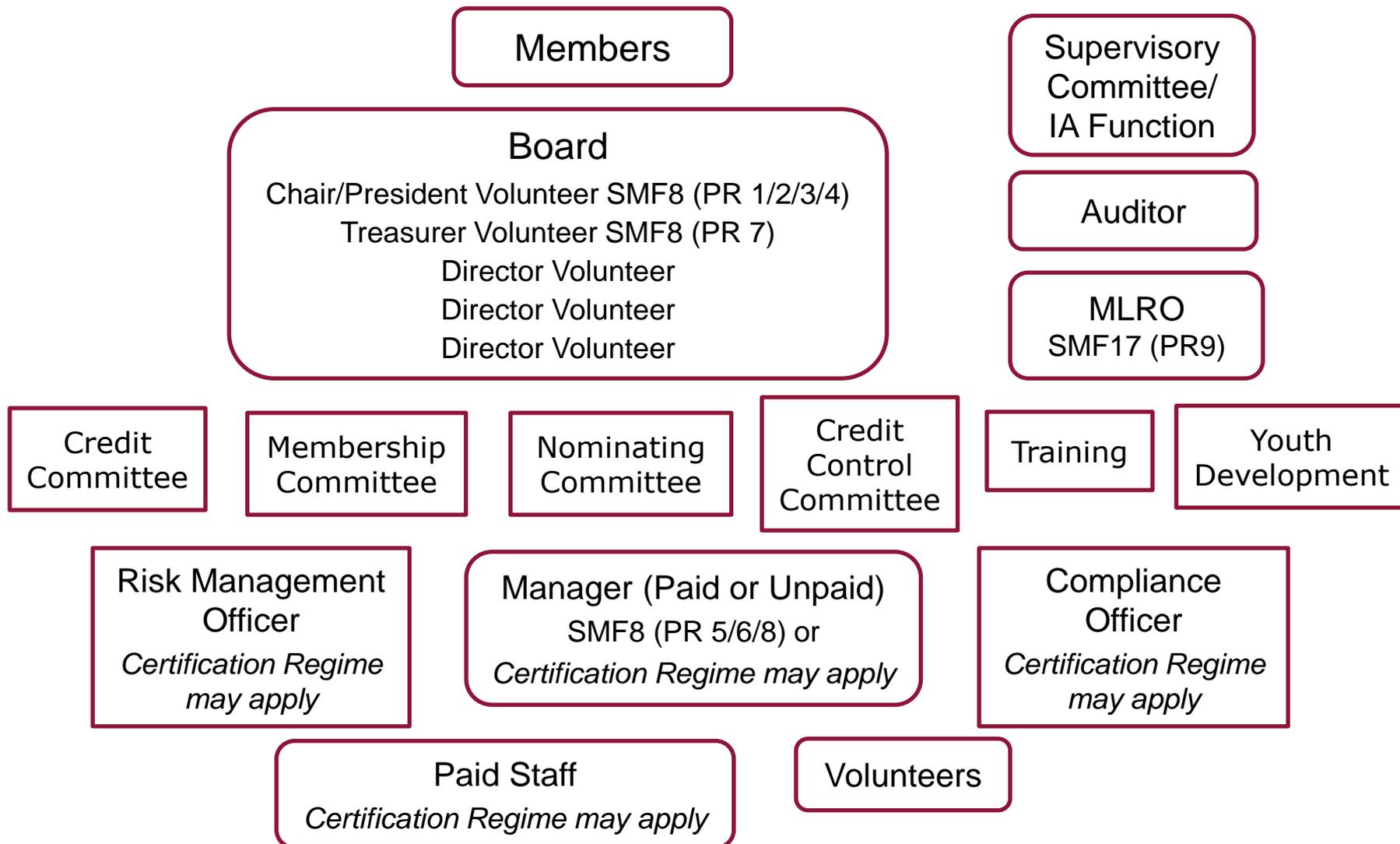
Statement of Responsibilities and Maps

- Credit unions are required to draw up Responsibilities Maps for the business as a whole and Statements of Responsibilities (SoRs) for each individual SMF.
- We have **not prescribed** the format of the Responsibilities Map and would expect their complexity to vary according to the individual credit union.
- We have drawn up a **standard template** that firms must use when constructing their Statements of Responsibilities.
- When new applications for approval are submitted to the regulators, we expect to receive both a Statement of Responsibility for the candidate and a Responsibilities Map showing how the governance framework will change if approved.

Prescribed Responsibilities

1. The firm's performance of its obligations under the SMR
2. The firm's performance of its obligations under the certification rules
3. Compliance with the firm's obligations in relation to its management responsibilities map
4. The allocation of all prescribed responsibilities
5. The implementation and management of the firm's risk management and policies and procedures
6. Managing the systems and controls of the firm
7. Managing the firm's financial resources
8. Ensuring the governing body is informed of its legal and regulatory obligations
9. Overall responsibility for the firm's policies and procedures for countering the risk that the firm might be used to further financial crime

Responsibilities Map



Certification Regime

- Requires relevant firms to assess the fitness and propriety of certain employees who could pose a risk of significant harm to the firm or any of its customers

Scope

- Does not apply to senior managers
- Roles that can pose significant harm to the credit union (e.g. risk management officer, compliance officer, lending officer)
- Customer facing roles with a required qualification (e.g. mortgage advisers)
- Line Managers of other Certified People

Features

- Certified individuals need to be identified by 7 March 2016
- Certified individuals need to be signed off as 'fit and proper' by 7 March 2017
- Annual Certification by firms
- Certification Regime overseen by a Senior Manager

Conduct Rules - scope

- The Conduct Rules replace the existing APER Principles, but apply more broadly (APER Principles applied only to Approved Persons).
- The Banking Reform Act gives the regulators the power to issue fines and prohibitions where individuals have been found guilty of breaches of conduct.
- The Conduct Rules apply to all staff subject to SM&CR – Senior Managers, Certified Persons and other Relevant Persons – but not “ancillary staff”.

Conduct Rules - scope

- Examples of individuals who will be within the scope of the Conduct Rules:
 - General Manager
 - Loan officers
 - Counter staff
- Examples of individuals not within scope of the conduct rules include:
 - Cleaning staff
 - Catering staff
 - Personal assistants/secretaries

Conduct Rules

Rule		Applied by
First tier – Individual Conduct Rules (CR)		
CR1	You must act with integrity	FCA and PRA
CR2	You must act with due skill, care and diligence	FCA and PRA
CR3	You must be open and cooperative with the FCA, the PRA and other regulators	FCA and PRA
CR4	You must pay due regard to the interests of customers and treat them fairly	FCA Only
CR5	You must observe proper standards of market conduct	FCA Only

Conduct Rules

Rule	Applied by	
Second tier – Senior Management Conduct Rules (SM)		
SM1	You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively	FCA and PRA
SM2	You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system	FCA and PRA
SM3	You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively	FCA and PRA
SM4	You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice	FCA and PRA

Criminal Offence

Criminal Offence

- The Banking Reform Act creates a criminal offence relating to 'a decision causing a financial institution to fail'. This section of the Act does not apply to senior managers working in credit unions.

Duty of Responsibility

HM Treasury has announced that they intend to replace the 'Presumption of Responsibility' with a 'Duty of Responsibility'. Under the 'Duty of Responsibility':

- Senior Managers must take reasonable steps to prevent regulatory breaches occurring in the areas of the credit union that they have regulatory responsibility (or rectify any breaches they inherit)
- The regulators will have the power to take action against senior managers who do not effectively discharge their responsibilities under the new regime
- It will be for the regulators to prove that individual senior managers have not taken reasonable steps, should an event occur that breaches PRA and/or FCA rules
- This will replace the 'Reverse burden of proof' concept that was contained within the original legislation passed as part of the Banking Reform Act (2013).

Criminal records checks

- Under the SM&CR, firms have to take greater responsibility for the conduct of their staff and in ensuring that individuals are fit and proper when recruiting and on an on-going basis.
- The new rules require credit unions to undertake criminal records checks on all prospective senior managers as part of the recruitment process.
- Criminal records checks are now provided in England and Wales by the Disclosure and Barring Service, and are called **DBS checks**. Disclosure Scotland and AccessNI offer a similar service in Scotland and Northern Ireland respectively.
- Criminal records checks are not mandatory for Certified individuals.

How it all fits together

