Opinion: EANDCB validation
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Regulatory Policy Committee

Extending the Senior Managers & Certification Regime to insurers

Financial Conduct Authority

RPC rating: validated

Description of proposal

In March 2016, the Financial Conduct Authority (FCA) applied the Senior Mangers & Certification Regime (SM&CR) to banks, building societies, credit unions and Prudential Regulation Authority (PRA) designated investment firms. The FCA's present proposal is to extend the SM&CR to all firms authorised to provide financial services due to changes to FSMA which include a new framework for approving individuals and holding them to account. The regime was extended to include all insurers (who are jointly regulated with PRA) and solo-regulated firms (who are solely regulated by the FCA).

The main elements of the SM&CR that will apply to every firm are:

Senior Manager regime – This regime defines certain roles as senior management functions. Every senior manager will need to be approved by the FCA before they start their role and will need to provide a statement of responsibilities setting out what they are responsible and accountable for. This statement must be updated whenever there is a significant change to the senior manager's responsibilities. In addition:

- Every senior manager will have a 'duty of responsibility' which means that if something goes wrong in an area for which they are responsible, the FCA can determine whether the firm took reasonable steps to prevent this from happening. This aspect of the regime is a requirement under the enabling legislation.
- Firms will need to give to their senior managers some new responsibilities (Prescribed Responsibilities). This requirement won't apply to some firms, such as sole traders or firms with limited permissions and EEA branches. More responsibilities will apply to bigger firms so that there is a proportionate approach.

Certification Regime – This regime covers individuals employed by firms who are not senior managers, but whose jobs can have a significant impact on customers. Firms will need to certify the suitability of these individuals annually.

Conduct rules – These new rules set out basic standards that will apply to nearly all staff of regulated firms and are intended to create culture change within the industry.

Extra requirements for Solvency II firms and large Non-Directive Insurers – Some extra requirements are being applied to the largest and most complex firms (fewer than 1%). These firms will need to have 'Responsibilities Maps' and 'Handover Procedures' setting out their responsibilities and the process.

Impacts of proposal and complying with the regime

The measure affects all 560 insurers authorised under the FSMA, all of which are regulated by the FCA. It replaces the Approved Person Regime, which had some similar requirements, but the FCA notes that firms will incur significant additional compliance costs under the new regime, including one-off implementation costs and annual ongoing costs. For example, firms may incur costs of staff time for training and supervision, or costs of new IT equipment and system changes, which may be needed to document compliance. Some of these costs will be one-off costs such as systems changes. The FCA estimates that on average insurers will incur one-off costs of £15,860 to £16,070 implementing the regime and then £5,760 to £7,630 in ongoing costs. It has not provided estimates of the average costs for all types of affected firms. The FCA estimates that the one-off costs to firms will be between £8.8m and 8.9m, and that ongoing costs relating to certification and training will be between £3.2 and £4.2m per annum.

The FCA also notes that some insurers have already been subject to the Senior Insurance Managers Regime, which includes some elements of the SM&CR. They will therefore be more familiar with the new regime and are expected to have lower implementation costs.

Quality of Submission

The FCA provides a clear breakdown of the estimated costs to business, supported by extensive consultation with the industry. The RPC welcomes the fact that the FCA has weighted the survey response data to more accurately reflect the characteristics of the population of affected firms, to ensure that the estimates of the overall cost to industry weren't biased by differing complexity of firms or the varying levels of response rates by different types of firms, and reflect a reasonable estimate of the overall cost to industry. The QRP would benefit from:

- providing a description of the benefits to firms and consumers which implementation of the new regime is expected to generate, and estimating these benefits, or providing a qualitative analysis if that is not possible;

- recognising that the costs firms incur in complying with the new regime are likely to be passed on to consumers;
- describing the consequences to firms with regard to the 'duty of responsibility' should something goes wrong in an area for which an individual is responsible;
- explaining what the 'Responsibilities Maps' and 'Handover Procedures' are, and how these requirements will affect firms.
- If there would be costs, albeit probably relatively small, for in-year appointees which will occur for a range of reasons, internally such as from job changes and externally from business mergers.

The RPC considers the level of analysis which the FCA has provided is proportionate, especially in light of the fact that the extensive consultation relates to the SM&CR as a whole, and not just to the extension of the regime to insurers and other FCA regulated firms. However, the BIT assessment could be improved by providing a clearer discussion of the benefits of the changes to the industry and to consumers.

The FCA has estimated that 170 firms affected by this measure are small and micro businesses, and notes that it has designed a streamlined regime for some smaller firms. The RPC is pleased to see the FCA taking this proportionate approach to regulation.

Departmental assessment

Classification	Qualifying regulatory provision (IN)
Equivalent annual net cost to business (EANDCB)	£5.0 million
Business net present value	-£ 43.4 million
Overall net present value	-£43.4 million

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated[1]	£5.0 million
Business Impact Target (BIT) Score[1]	£25.2 million

[1] For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.

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