

Consumer Duty implementation – key SMCR considerations

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The Consumer Duty (“CD”), which comes into force on 31 July 2023, has some key SMCR and governance related implications – notably:

- the introduction of a new Individual Conduct Rule 6 (*you must act to deliver good outcomes for retail customers*) (“ICR6”);
- rules around the interaction of ICR6 and Individual Conduct Rule 4 (*you must pay due regard to the interests of customers and treat them fairly*) (“ICR4”);
- expansion in scope of Senior Manager Conduct Rule 4 (*you must disclose appropriately any information of which the FCA or PRA would reasonably expect notice*) (“SCR4”) as it applies to Senior Managers;
- the expectation that each Senior Manager is responsible for compliance with the CD as it relates to their areas of responsibilities, rather than there being one Senior Manager with overall responsibility for the firm’s compliance with the CD;
- the expectation to have a Board level CD Champion who is an independent non-executive director, where possible.

These changes will require firms to take specific actions in respect of their SMCR frameworks, amongst other things. We have provided an initial checklist on the next page to assist you.

As you know, we have worked with a huge number of firms across the market on their SMCR implementation and we are on hand to assist firms with CD related updates, including: (1) updates to SMCR policies and procedures, (2) training – be that Conduct Rule staff training, Senior Manager or CD Champion briefings, or upskilling the Conduct Rule panel/committee members, and (3) employment related updates.

We are also preparing a Consumer Duty Toolkit to support firms with their implementation. Please get [in touch](#) if you are interested and we can share the pricing.

Updates that may be required (as applicable to the firm’s documentation and SMCR framework):

Employment and appointment letters

1. Update employment contract templates to include ICR6, as required - e.g.: employment contracts, promotion amendment letters, contractor terms, secondment agreements.
2. **For Companies:** Update template Board director appointment letters, as required.
3. **For LLPs:** Update template member documentation, as required.

Other employee considerations

4. Update Employee Manual/Handbook and/or Code of Conduct, as required.
5. Update template disciplinary invite letter and disciplinary outcome documents, as required, to accommodate for ICR6.

Policy and document updates

6. Update SMCR policies referencing the Conduct Rules and, specifically, update Conduct Rule policies and procedures, including Conduct Rule breach assessment policies, processes, procedures, guidance and forms (e.g. Conduct Rule breach assessment forms / outcome documents).
7. Update Conduct Rule Breach Committee (or equivalent) Terms of Reference and guidance/practice notes, as applicable.
8. Consider Statement of Responsibilities (SoRs) update for the CD Champion (if they are an SMF only) and any associated Management Responsibilities Map changes (if relevant). Depending on how a firm drafts its SoRs other Senior Managers’ SoRs may need to be updated also.
9. Consider whether there is a Regulatory Communication Policy (or similar) that requires updating in light of the updated guidance around the scope of SCR4.

Senior Managers

10. Review and update (as required) Senior Managers’ reasonable steps in light of their CD responsibilities and the scope of Senior Manager Conduct Rule 4.
11. Update any template MI produced on the Conduct Rules to reference ICR6.

Education

12. Update and deliver updated Conduct Rules training including ICR 6 to relevant staff subject to the Conduct Rules.
13. Brief the Senior Manager with PR (c) on the changes to the Conduct Rules.
14. Brief the Senior Managers and CD Champion on their responsibilities.

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