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Senior Managers & Certification Regime Call for Evidence
Financial Services Strategy
HM Treasury
1 Horse Guards Road
SW1A 2HQ

30 May 2023

AFM Response to HM Treasury Call for Evidence on SMCR

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
 - Comment on the proposals, and
 - Explore the consequences for members of AFM and their customers.

About AFM and its members

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not-for-profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 32 million people in the UK and Ireland, collect annual premium income of over £22 billion, and employ nearly 30,000 staff¹.
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses² and to take account of corporate diversity³.

¹ ICMIF and AFM, 2022: <https://financialmutuals.org/wp-content/uploads/2022/10/UK-Market-Insights-2022.pdf>

² Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

³ <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

AFM comments on the proposals

4. We welcome the opportunity to respond to this call for evidence. We are also responding in more detail to the joint Discussion Paper issued by PRA and FCA.
5. SMCR was introduced, as the Call for Evidence indicates, in the aftermath of the financial crisis and Libor scandal. Despite the majority of concerns being directed at the banking sector, the insurance industry readily accepted the benefits of extending the regime further. It is reassuring that the Regime has proved flexible and broad enough to apply equally effectively to both large banks and small friendly societies.
6. In our view, SMCR has contributed to the ongoing professionalism of Boards. The Certification regime is helpful in ensuring that not every NED has to conform to the very high standards expected of SMFs. As a result, AFM and its members would not welcome significant change to the SMCR.
7. We do however consider there is scope to improve delivery within the existing Regime:
 - a. The authorisations process: as the Call for Evidence acknowledges, there have been concerns about the failure of regulators to meet the expected service levels (particularly of determining authorisations within three months). We have reports of improved efficiency in decisions made in recent weeks, given new resources in FCA, and this is welcome. However, firms are keen to see this maintained for the long-term, and for regulators to not revert to last minute tactics designed to stop the clock, or other forms of delay.
 - b. Interviews: we recognise the value of regulators seeking to interview prospective candidates. However, we consider that interviewers dwell too much on the knowledge of candidates, and not enough on whether they possess the right values and culture for the role.
 - c. Proportionality: It is undoubtedly the case that for small mutuals and friendly societies, many of whom previously paid only very limited attendance fees to NEDs, the SMCR has increased costs significantly, and potentially made it more difficult to achieve diversity- at least of experience- in some Boards. The SMCR rules permit double-hatting for small firms, so that responsibilities can be shared amongst the small executive/ NED team; however, regulators are often reluctant to allow managers to take on more than one role, and this has added to the payroll.

- d. Scope: in recent times we have seen the regulators seek that firms create Board champions (e.g. on climate change and the Consumer Duty). These are not SMF roles, but the growing web of responsibilities seeks to either dilute or duplicate SMF roles, or to create new SMF roles beyond the current scope.
 - e. Coordination: for dual-regulated firms, the need for both regulators to review applications adds extra delays, and often each regulator repeats the data requests of the other. Reviewing applications in tandem would be more efficient.
 - f. Good practice: we consider there is more scope for regulators to share examples of good practice, and to supply standard templates for the Management Responsibilities Map. We also consider part of the problem with the authorisations process has been a reluctance of FCA to comment on how to provide an application more likely to succeed first time; a similar exercise for our members with PRA in the past was very instructive.
8. We consider the SMCR should be extended to include other elements of the financial service sector, including those listed in paragraph 3.25. The Call for Evidence highlights the review Treasury has instigated on the Appointed Representatives regime. We consider that there is an urgent need to consider the effectiveness of the current regime: AR's are not covered under SMCR, but the current approach creates lots of work and problems for small producer firms, due to the movement of advisors across organisations (i.e. phoenixing). We suggest the AR regime should be closely aligned with SMCR, to require individual registration for anyone giving advice, and that directors of advice firms should be covered by fitness and probity rules.
9. We would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,



Martin Shaw
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Association of Financial Mutuals