

SMCR changes: consultation ideas



Mark Bishop, 9 May 2023

What's wrong with current scheme?

- Industry complaint: authorisations bottleneck
- Firms 'gaming' application process
- FCA accelerating/outourcing approval process
- Risk of bad actors getting through
- Negligible levels of enforcement
- Regulatory complacency/capture (see Jes Staley case)
- Little/no evidence of conduct improvement

How to fix it?

- Limit SMCR to *senior* managers
 - Enhanced checks, supervision and jeopardy for key executives
 - Denies regulators grounds for outsourcing or rushing process
 - Responsibility maps are key: no overlaps, no underlaps
 - Avoids ‘deputy heads will roll’ problem
 - Prevents FCA/PRA from scapegoating nonentities
 - Less impactful on good actors, while denying bad ones a hiding place
- Rebrand/refocus as ‘senior managers certification *and accountability*’ regime
 - Introduce duty of care owed by *authorised persons* (individuals, not just firms) to consumers
 - Require firms to introduce personal guarantees for senior managers - empowers shareholders
 - Turns every mistreated consumer and shareholder into an enforcement department
 - Crowdsourced justice can’t be captured, is not resource-constrained
- ‘Replace airbags with spikes; drivers will be more careful’

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