Simplify Consulting

Senior Manager & Certification Regime

Implementation Challenges

White Paper V 1.0

Kate Monserrate

Issued: August 2020 | Updated to: August 2020

01

INTRODUCTION

The extension of the Senior Managers & Certification Regime (SMCR), from the banking sector, came into force in December 2019 which applies to all firms in the Wealth Management Sector. We look at the differing implementation challenges and impacts that Financial Advisers and larger Financial Institutions have faced and explore whether "a one size fits all" approach to regulation really works.

Contents

1 INTRODUCTION

The extension of the Senior Managers & Certification Regime (SMCR) from the banking sector, came into force in December 2019; which applies to all firms in the Wealth Management Sector in some shape or form. The deadline for solo-regulated firms to have undertaken the first fit and proper assessment of their Certified Persons has been delayed from December 2020 until March 2021 due to Coronavirus; however most firms have already progressed with implementing SMCR changes.

SMCR has impacted not only the large financial institutions but also Financial Advisers, some of which are small and have only one or two people as part of that business. In this paper we look at the differing implementation challenges and impacts both these types of firms have faced and explore whether "a one size fits all" approach to regulation really works.

To do this we interviewed the Senior Managers of five major financial institutions and five Independent Financial Advisers who are owners of their respective Adviser firms. We also spoke with a Compliance Adviser who works with Financial Advisers, helping to understand and implement regulatory changes, to provide some additional insight.

The firms and individuals who took part in this research will remain anonymous.

Source: aima.org

1.2 WHAT IS SMCR ABOUT ANYWAY...?

SMCR was brought into effect to measure and highlight the importance of accountability, to protect the customer, to restore confidence in the financial services industry and to promote an open and transparent culture.

There are three main components of SMCR:

SENIOR MANAGERS:

- To be able to demonstrate they are "fit and proper" for the role through an assessment process
- They require a statement of responsibility, so roles, objectives and accountabilities need to be clearly defined and documented
- There are some specific roles which would be considered a "Senior Manager"
- There are prescribed responsibilities by the FCA that a Senior Manager should have

CERTIFICATION:

- There are various responsibilities which have been determined that should be "certified" e.g. CASS oversight, client dealing, functions subject to qualification requirements, anyone who supervises a certified function and so on
- The change here is the firm will need to perform an annual certification process to demonstrate the people in those roles are capable and competent

CONDUCT:

- This impacts everyone and applies to everyone in the industry
- There are 5 conduct rules which apply to everyone and a further 4 which also apply to Senior Managers
- A firm must demonstrate it is meeting these conduct rules through training and education

At Simplify Consulting, we have clients in all parts of the value chain in the Wealth Management sector. SMCR applies to all those firms – Life & Pensions Providers, Platforms, Asset Managers and even Financial Advisers.

02

Research

The following section outlines the research we conducted on the various impacts in implementing the SMCR changes.

2 RESEARCH

2.1 Respondents

We surveyed Senior Managers from five large firms in the Wealth Management sector, along with five Independent Financial Advisers who own their own Adviser business. All of these firms have implemented the necessary changes required to be compliant with the SMCR regulations.

2.2 The Questions

All the respondents were asked the same set of questions, so they could be easily compared and cross referenced. The research was anonymous; however we were able to identify Financial Institutions from Financial Advisers in the research to then better assess the comparison between the two groups.

The following questions were asked:

1. How many people are certified in your firm?

2. On a scale of 1 – 5, how big an impact has SMCR had on your firm?

3. On a scale of 1 – 5, how big an impact has SMCR had on you as an individual?

4. In your view what has been the biggest impact SMCR has had on you as a Senior Manager:
   - Personal Liability – Reorganisation to ensure accountability – FCA approval
   - Governance requirements – Statement of responsibility – Other

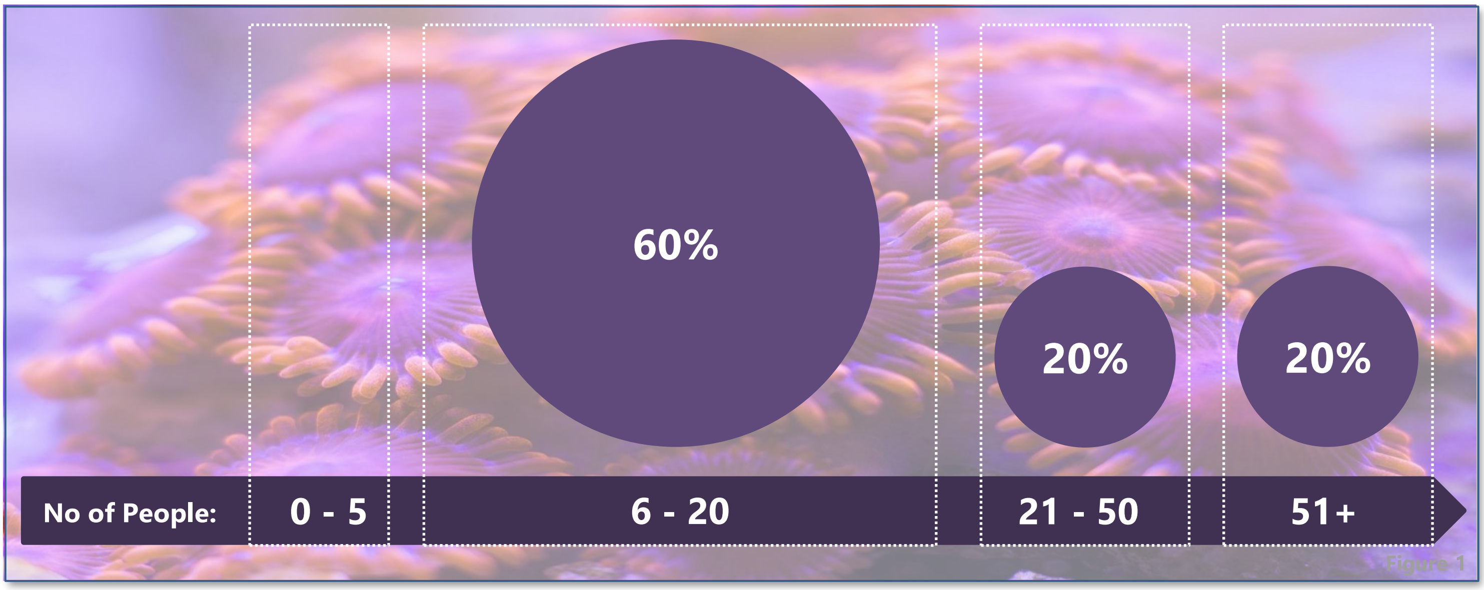
5. In your view what has been the biggest impact SMCR has had on your firm?
   - Scope of certification – Certification process – Adherence to conduct rules
   - Training & comms – Attestation process – Other

Financial Institution

Financial Adviser

2.3 Survey Results

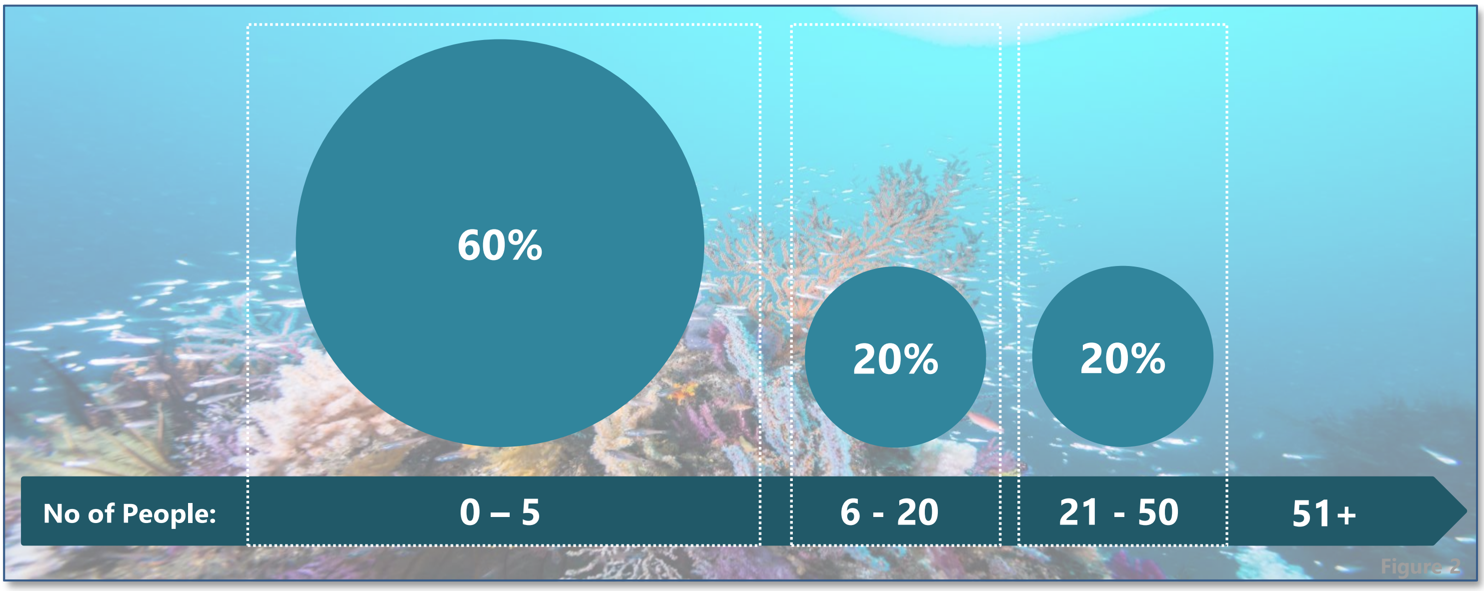
1 **How many people are certified in your firm?**



People need to be certified if they perform certain functions – usually interactions with customers or dealing with money. The whole purpose of certification is for individuals to demonstrate they are capable and competent to perform their role on an ongoing basis. There will be a requirement to "attest" on an annual basis and if an individual isn't able to demonstrate their competence or capability, they will not be able to perform that certified part of that role until they do.

It is not surprising that the majority of Financial Adviser firms we spoke to, have a lower number of people certified, than Financial Institutions. 60% of the Adviser firms we spoke with have 5 of less people certified – see Figure 2. When looking at the proportion of people certified compared to the total workforce, it is approximately 60%. Compared to Financial Institutions, on average 20% of the total workforce are certified.

The certification process is the same for both sets of organisations though, regardless of size. This is likely to represent different challenges for both types of business. Financial Advisers have commented that the process is cumbersome and an overhead; in particular as many Financial Advisers are business owners, so they will have their "job", running a business and the administrative and regulatory responsibilities such as SMCR. The larger Financial Institutions have different challenges, where the volume of people certified is greater and it will therefore require an additional level of management. Of the firms we spoke with, some have managed to adapt existing performance and management processes e.g. appraisals, 1:1's, training & competency schemes. Whilst others have had to develop new roles and processes in order to comply with SMCR. However whatever size of the business, SMCR has resulted in additional work and processes.



2.3 Survey Results

Financial Institution
Financial Adviser

Only 20% of Financial Institutions have said SMCR has not had an impact on their business; all other Financial Institutions and Financial Adviser businesses have confirmed SMCR has had an impact. See Figure 3. It is a similar set of results for whether SMCR has had an impact on the individual answering the survey. See Figure 4.

2 How big an impact has SMCR had on your firm?

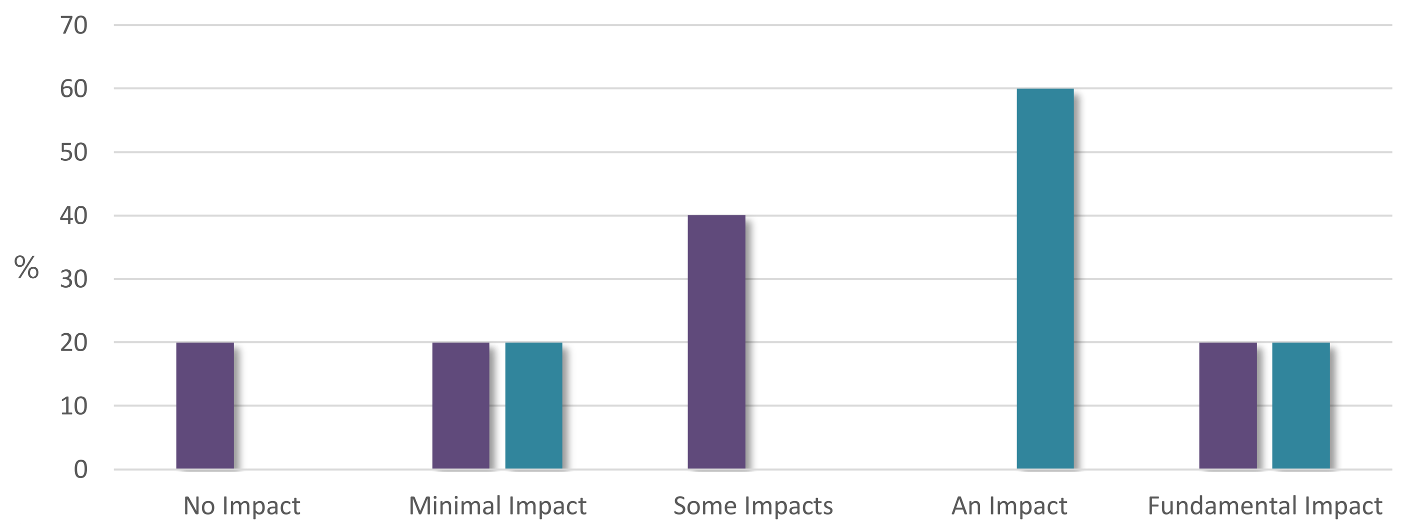


Figure 3

3 How big an impact has SMCR had on you as an individual?

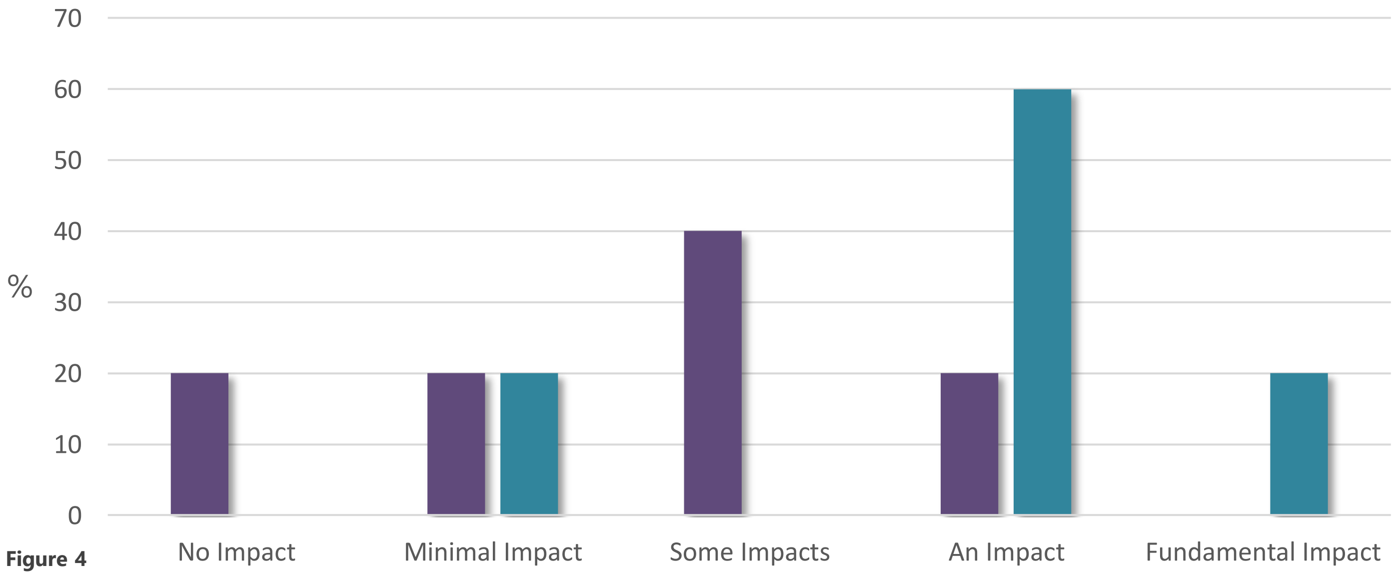


Figure 4

A fish out of water...?

"

SMCR is very time consuming and costly for a small business

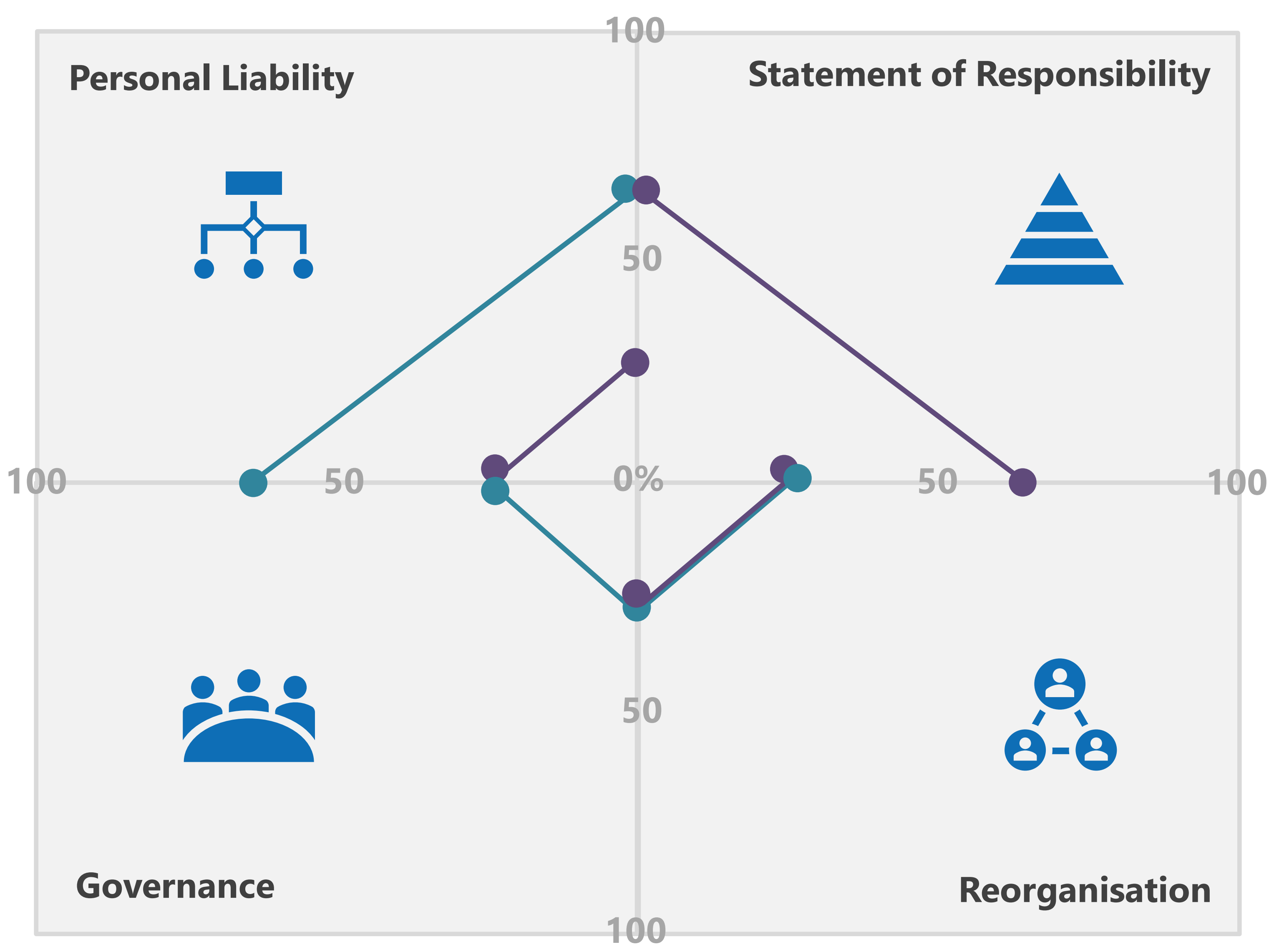
Financial Institution
Financial Adviser

4 What has been the biggest impact SMCR has had on you as a Senior Manager?

It is clear there are differing impacts on the individuals within Financial Institutions and Financial Adviser firms. 60% of respondents in Financial Institutions confirmed the biggest impact of SMCR was the Statement of Responsibility – this isn't just an organisation chart but a detailed document which sets out all the firms responsibilities and who is accountable. All responsibilities should be traceable and point to a single individual at the top of the organisation. At the outset of SMCR, some firms did not have this in place and it took significant effort to firstly document the firms processes and responsibilities and then agree on ownership. There has had to be a move away from Committees being accountable to sole individuals.

This does closely align with the biggest impact Financial Advisers faced and that is personal liability. As we know Financial Advisers retain liability as part of their role, in providing their clients advice.

Other impacts include Governance and Re-organisation; likely to be as a direct result of ensuring accountabilities are clearly assigned and demonstrating compliance with the rules.

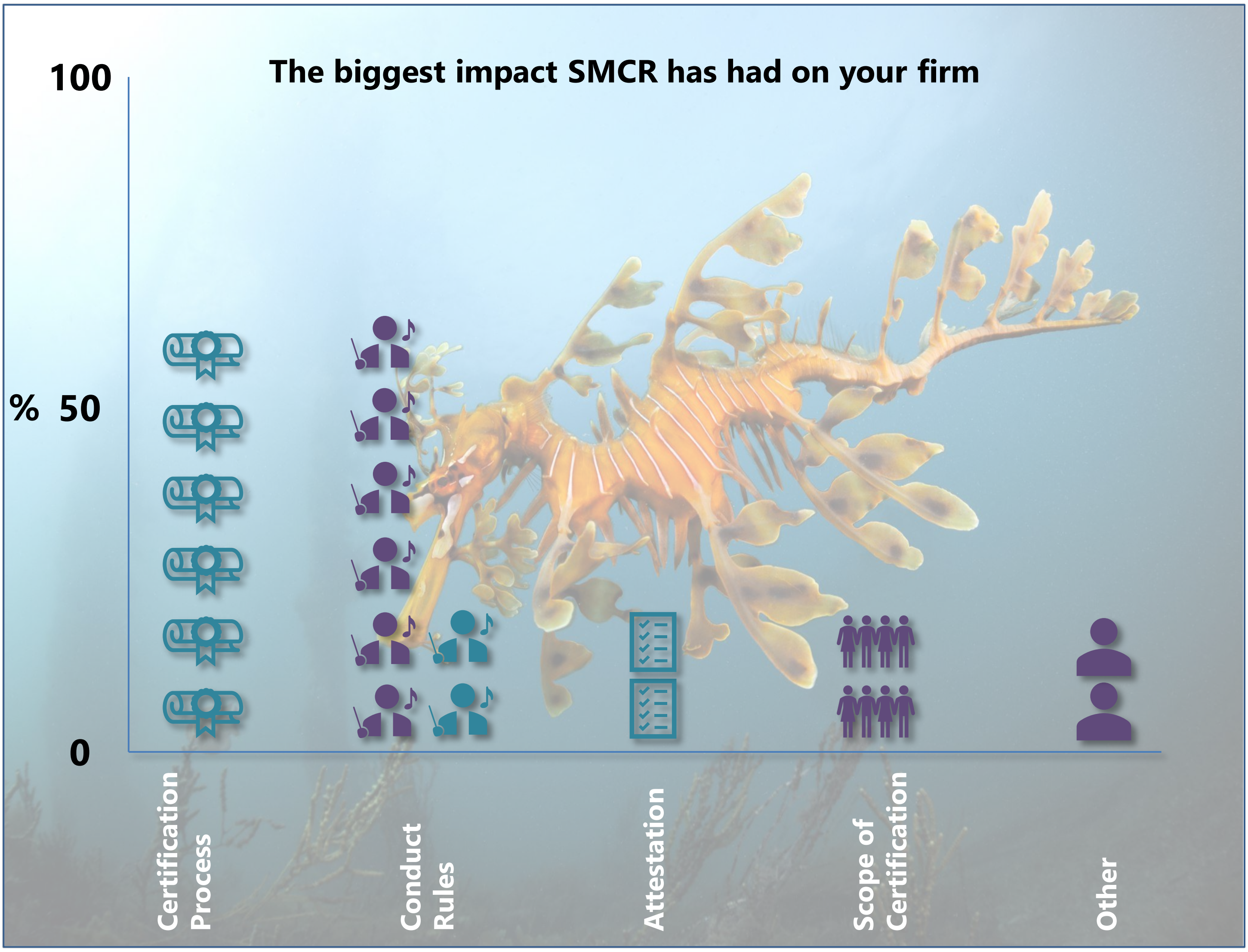


Financial Institution
Financial Adviser

5 What has been the biggest impact SMCR has had on your firm?

As with the impacts on individuals, there are two clear impacts on the overall firm when it comes to SMCR. For Financial Advisers, the certification process is the biggest impact. From personal experience in designing and implementing a certification process for a large financial institution and understanding the requirements, I understand why this would have such an impact, especially on smaller firms. The rules and regulation aren't scaled back or tailored for smaller firms – the same process and evidence is required. It is extensive – fit and proper questionnaire, demonstrating you are financially responsible, competence through qualifications and training. Whilst you could argue this is something that needs to be done already, we know that in smaller businesses, the administration overhead does not need to be the same.

For Financial Institutions, the biggest impact is demonstrating adherence to the Conduct Rules. A set of subjective rules associated with people's conduct – values and behaviours. As with regulation, this is open to interpretation and very subjective. Many frms have struggled to see they are able to demonstrate "good" conduct – it's cultural. One of the main aims of the regime is to create an open and transparent culture, where people feel empowered to speak up. The new conduct rules apply to everyone and the FCA want to encourage everyone to highlight areas of misconduct. It has been highlighted by some firms that if you don't speak up about poor conduct, then that in itself is a conduct breach. Whilst the regulations have the best intentions, will it go too far the other way? Will people speak up and report absolutely anything, for fear of not being open or transparent? Some scenarios for misconduct are easier to measure than others, although it is mostly down to human behaviour – how someone perceives or reacts to that will be subjective and personal. Whilst one person may view an incident as misconduct, another may not. Being able to show the FCA how a firm has "good conduct" has been a challenge.



31st March 2021

Implementation Date

03

Regulation

Does one size fit all..? We ask a Compliance Officer their thoughts on whether the application of the SMCR rules are proportionate for all firms.

3.1 The Compliance View

We spoke with a Compliance Officer, who provides services to Financial Advisers and has worked in the Financial Services industry for over 30 years. He confirms that the burden on Financial Adviser businesses is large; especially the larger Adviser firms, who would not get away with ignoring the regulation. All firms will need to do fit and proper checks, annual testing, certification etc. He fears that the "one man bands" may ignore the SMCR requirements as they are too much of a burden. They will not ignore them because their intentions are not good; it is the fact the regulations have not been tailored to the size of the business.

The Compliance Officer has helped his Financial Adviser clients implement SMCR and to help demonstrate compliance (by conducting fit and proper checks and interviews). His view is the biggest impact on Senior Managers is the Statement of Responsibility. He says "firms have had to look at themselves and re-organise who does what".

> ***"We invested a large amount of time on this project which had an impact on cashflow & prevented us form servicing clients. The regulator does not seem to comprehend what an investment both in time & money this has on smaller businesses.*** ***(Financial Adviser surveyed)***

Whilst he agrees the regulations and requirements are onerous, he thinks they are necessary. Financial Advisers have such a crucial role in the Financial Services industry – often they are the first point of contact for a customer. "We need to ensure Financial Advisers, in particular, are fit and proper". SMCR also raises other issues and questions about the sustainability of "one man bands". The key aim of SMCR is to ensure accountability is clear; if the Financial Adviser is deemed not "fit and proper", what happens to those clients? Where do they go? What are the continuity plans of the business?

Whilst many have commented on the negative connotations of SMCR, the regulation only had good intentions and that was to restores customers faith in the industry. He thinks SMCR has been necessary to get better systems and controls in firms; and for those to be documented and understood.

There is still the question of whether regulation can just be applied the same across the value chain – are Adviser firms really the same as an Asset Manager, Platform or Life & Pension Provider? The same principles should apply to those with accountabilities; however smaller businesses do not have the same budget, resources, processes and support structures in place to implement and operationalise regulation.

04

Conclusions

A summary of the implementation challenges with SMCR

4.1 Key Conclusions

Although the implementation of SMCR has been deferred until 31st March 2021, all the firms we spoke to as part of this research have already implemented the changes required.

Overall, the key challenge to any firm, regardless of size or sector within Financial Services, is being able to demonstrate compliance with something that is largely intangible, in three key areas:

- Accountability
- Conduct
- Capability and Competence

There are differences between Financial Advisers and other Financial Institutions though. For the Financial Adviser, personal liability is always at the forefront. For Financial Institutions, it was the Statement of Responsibility, which then undoubtedly resulted in having to document key processes and functions and re-organise.

Whatever the impact, what has been clear from this research is Financial Advisers have felt the burden of this on their business and it does beg the question whether regulation should be applied regardless of a firms size. Everyone agrees the protection of a clients interests and wealth is the upmost importance; however is the regulator able to be pragmatic? And can regulation ever be applied proportionately?

About the Author

Kate Monserrate

Co-Founder, Director

Professionally qualified and experienced Consultant, with significant experience in successfully delivering and embedding large scale transformational change, including IT, Business & Risk initiatives within Financial Services. Experience in leading teams both technically and providing strategic direction.

Over 20 years experience in the industry. Worked with a number of key players in the Wealth industry including HSBC Wealth, Quilter, Investec Wealth & Investments, Aegon, LV=, TCS & Diligenta, Janus Hendersons and some smaller, but equally important, Adviser businesses including Ideal Financial Solutions, FPWM and Lansdowne-Woodward.

Proven track record in consistently delivering change successfully on time, to budget and to quality, with excellent communication, stakeholder engagement and organisation skills.

Specialisms include Change Delivery, Risk Management and Process Optimisation, with professional qualifications in Prince II, Operational Risk and Lean.

Contact details

07912 858433

kate@simplifyconsulting.co.uk

www.simplifyconsulting.co.uk

Linkedin.com/in/katemonserrate/