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Having an Impact

Senior manager regimes in the UK and elsewhere

Individual accountability is finally becoming a reality. After years of talk, 2016 was the year that it began to bite in the banks. For many financial services firms, it's a sign of things to come.

The UK's Senior Management and Certification Regime was introduced last March for banks, building societies and credit unions. It has undoubtedly made certain roles within these institutions less appealing as they carry a greater degree of personal risk. Individuals will now think twice about taking on roles that may ultimately cost their career. This will undoubtedly extend to the compliance officer, MLRO and head of risk. Those already in these roles will be harder to retain and will be worried if they feel that they don't have the support they need to do the job. We have arguably already seen examples of this.

There are many other well paid roles within regulated institutions that may seem more appealing and don't fall under regulatory scrutiny. This may have a knock on effect on certain roles, simply because not enough skilled staff want to take on the personal regulatory risk. The question then becomes; are these regulated firms willing to increase compensation enough to cover the risk? We have not yet seen this shift but clearly it must be a consequence. Ultimately, then, the regime may give rise to unintended consequences resulting in real difficulty to fill such posts – at the risk to the institution.

Sticking with what works

Yet the Financial Conduct Authority (FCA) is likely to stick with its agenda – and others will soon feel its effects. Next year, in the UK, the regime will be extended to investment firms and asset managers. In Hong Kong, the SFC has introduced its new Managers-in-Charge regime through a circular[1] issued in December along with a list of frequently asked questions.[2] The SEC, meanwhile, continues its enforcement action against 'gatekeepers' that fail in their duties to prevent financial crime.[3]

The reason is simple: with these regimes, personal accountability is having an impact. The threat of personal sanctions is ensuring compliance functions put their duties before other considerations. Where managers fail to support them, they themselves may face penalties.

Even if senior managers are reluctant to pay compliance functions more, the regime should eventually lead them to budget differently for compliance: counting not just compliance costs, but the costs of hiring a replacement compliance officer or interim staff; for regulatory penalties and remediation in cases of failure; and for their own personal liability potentially if things go wrong.

In short, this new regime may be a game-changer. Almost a decade after the financial crisis, cultural change in financial services is finally starting to happen.

1 www.sfc.hk/edistributionWeb/gateway/EN/circular/openFile?refNo=16EC68
2 http://www.sfc.hk/web/EN/faqs/intermediaries/licensing/manager-in-charge-regime.html#26
3 https://www.sec.gov/news/pressrelease/2016-120.html