A fit and proper listing

***Alexandra Carn** explains how the new Financial Services Directory will work and why, while it is good news for the public, it will be an added burden for firms*

Since the heady days of the introduction of the Financial Services and Markets Act (FSMA) in 2000, there has been a public record of regulated firms and approved persons. But the inception of the Senior Managers and Certification Regime (SM&CR), in March 2016, brought with it a wholesale change to the way individuals are approved and regulated. That is why the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) now herald the "new" Financial Services Directory.

Prior to the SM&CR, regulated individuals were recorded on the FCA Financial Services Register. This was straightforward as it was the FCA (or PRA) that approved them as fit and proper to work in financial services. But for firms covered by the SM&CR it is now only senior managers who have to be approved by the FCA/PRA. The concept of senior managers covers only those holding positions with the greatest potential to cause harm or have an impact on market integrity. All other people fall under the certification regime whereby they are approved by the firms that engage them. The SM&CR only applies to banks, building societies and insurance firms, but this will be extended to all firms covered by the FSMA from 9 December, 2019.

This has left the current Financial Services Register unfit for purpose. From the end of 2019, it will effectively only record details of people engaged as senior managers. All other individuals who were previously "approved persons" will disappear from view because they fall under the certification regime. This might seem unimportant – after all, the SM&CR is intended to make firms take responsibility for ensuring that their people are fit and proper. That should make for higher standards in the sector.

The public, however, does value access to the Financial Services Register – it was accessed more than 8m times in the year to March 2017, according to the FCA – and people value it with good reason. Without an ongoing register, customers will be unable to verify the identity of those selling and providing advice on financial products. That is of increasing importance given the prevalence of financial scams today.

Firms also use the register to check the credentials of staff, which makes it harder for unsuitable people to find work in the UK market. This is important. The effective "self-approval" by firms of individuals under the certification regime has made it far easier for people who have been censored or involved in any of the recent scandals (rigging Libor or manipulating gold and forex fixes, for example) to find a friendly home than was the case when the FCA was the ultimate approver.

The new directory is not a complete break with the old register. It will include data previously obtainable from the register, including information on the type of business that a person is qualified to undertake where a particular qualification is required. For people who perform customer-facing roles, it will list their workplace and location (it is understandable that some front-desk staff may not see this as an advantage).

This is all good news for the public but an added burden for firms because the responsibility to upload the relevant data will lie with them. Regulators have recognised this: the original suggested timing for data updating was one business day but this has been changed to seven as part of the FCA's consultation response of March 2019.

This duty to keep the directory regularly updated, even with seven business days' breathing space, could be a challenge. Those who have worked in large organisations will recall the email circular with an excel spreadsheet listing cheque signatories – generally including many people who left the organisation months or, in some cases, years ago. Managing such data may be where blockchain will become invaluable.

Whether the directory has the FCA's desired effect of increasing visibility, adding to the amount of publicly available data, reducing scams and improving market standards remains to be seen, but it will be free, user-friendly and its ultimate success is something that can be measured by the number of users. It should not just be a change for change's sake but a valuable and dynamic resource – that is, provided that the technology works. The directory goes "live" in 2020. ■

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