



The SM&CR Myth-Buster for EMIs & PIs

- Individual Accountability & The SM&CR Myth



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As a licensed Electronic Money Institution (EMI) or Payment Institution (PI), you have likely heard the terms SMF 16 (Compliance Oversight) and SMF 17 (Money Laundering Reporting Officer). However, if you are searching the FCA Handbook for how to register your directors / senior team under these specific codes, you might be looking in the wrong place.

Today, we bust the most common myth in the UK payments landscape: Does Senior Managers & Certification Regime (SM&CR) apply to me?



MYTH

"All FCA-regulated firms must follow the Senior Managers & Certification Regime."

Busted! As of today, the SM&CR (found in the FIT, SUP, and COCON modules of the FCA Handbook) applies primarily to firms authorised under the Financial Services and Markets Act 2000 (FSMA)—such as banks, insurers, and consumer credit firms.

EMIs and PIs are authorised under the **Electronic Money Regulations 2011 (EMRs)** and the **Payment Services Regulations 2017 (PSRs)**. These are separate statutory instruments. And as such, the SM&CR framework does not currently apply to solo-regulated EMIs/Pis.

So, if not SM&CR, what applies?

While you don't use SMF codes, you are subject to the "Approved Persons" regime for payments, which is a "lighter" but equally serious version of accountability.

1. **The "Fit and Proper" Test:** Under Regulation 6 of the EMRs (or Reg 6 of the PSRs), any person responsible for the management of the institution must be "of good repute and possess appropriate knowledge and experience."
2. **The PSD Individual Form:** Instead of the long SM&CR application, you submit a "PSD Individual" form via the Connect portal. This is how you notify the FCA of your "Directors" and the "Persons Responsible for Management."
3. **The Roles:** While you don't officially have an "SMF 16," the FCA expects you to have a designated Compliance Officer and a nominated MLRO (often referred to as the 'Officer Responsible for AML/CTF').

The "Future-Proof" Strategy

The UK Treasury and the FCA have long expressed a desire to extend SM&CR to the payments sector (as highlighted in the 2021 Perimeter Report). To stay ahead, we recommend:

- **Draft Statements of Responsibilities (SoR):** Even if not legally required to file them, create internal documents defining who is responsible for what.
- **Map your "Three Lines of Defence":**
1st Line: Business operations/Sales (Risk owners) ; 2nd Line: Compliance/Risk (Monitoring/Oversight) ;
3rd Line: Internal/External Audit (Independent assurance)
- **Adopt the Conduct Rules:** Training your staff on the SM&CR "Conduct Rules" (e.g., acting with integrity, due skill, care, and diligence) is considered "best practice" and will make a future transition to SM&CR seamless.



What you should do?

Do not apply for SMF 16/17. Apply as a PSD Individual. But manage your firm as if the eyes of the Senior Managers Regime are already on you.

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