



Senior Executive Accountability Regime ("SEAR")

EY Financial Services Risk Management

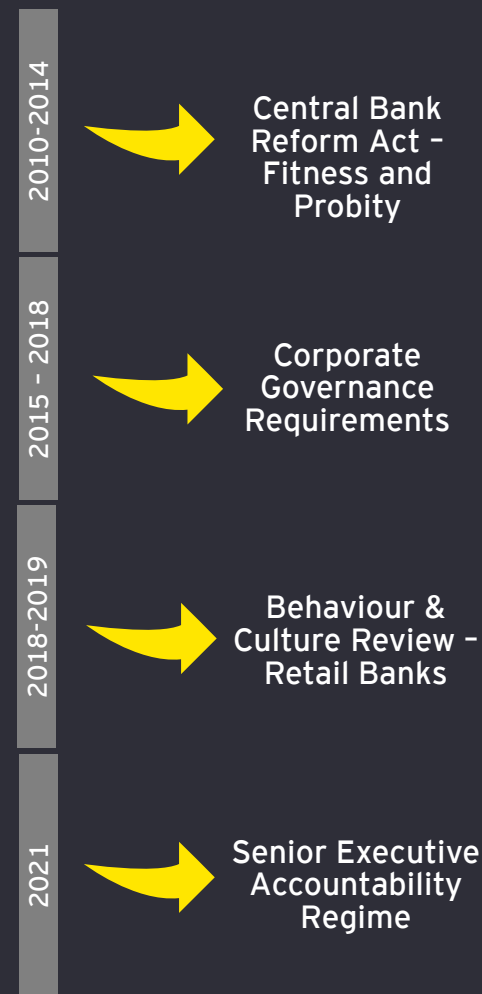
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Background

- ▶ The **Central Bank Reform Act 2010** which became effective in 2012 introduced a revised and significantly enhanced **Fitness and Probity regime**, (“F&P”) which applies to all Regulated Financial Services Providers authorised by the Central Bank of Ireland (CBI). The primary purpose of the regime was to ensure that persons in senior positions are competent and capable, honest, ethical and of integrity and financially sound at the time of their appointment and throughout the tenure of their role.
- ▶ Enhanced governance standards were set out in the **Corporate Governance Code for Credit Institutions and Insurance Undertakings 2015** and **The Corporate Governance Requirements for Investment Firms and Market Operators 2018**.
- ▶ In **2017 European Guidance on assessing the suitability of members of the management body** (board and executive) and key function holders was published jointly by the European Banking Authority (EBA) and European Securities and Markets Authority (ESMA) which aligns closely with the regime in operation in Ireland for senior role holders.
- ▶ Following the **tracker mortgage issue** and a review of the **Behaviour and Culture** of the five retail banks in **2018** the CBI announced its intention to introduce **an individual accountability regime in Ireland** . These have already been established in the UK (Senior Manager Certification Regime (SM&CR)), Hong Kong (Manager MIC), Singapore (GIAC) and Australia (Banking Executive Accountability Regime (BEAR)).
- ▶ On **8 April 2019** the CBI sent a **“Dear CEO” letter** to regulated financial services providers noting a general lack of awareness among firms of their obligations under the existing F&P regime and highlighted areas where compliance had been lacking. This caused a number of firms to review how they are meeting their ongoing F&P obligations.
- ▶ In **2019** the Head of Enforcement outlined the four components of the proposed regime in Ireland, namely, **(1) enforceable conduct standards** including additional standards for those in senior positions to take all reasonable steps to ensure that the areas of business for which they are responsible are controlled effectively and comply with regulatory requirements **(2) SEAR** imposing enhancements in transparency in relation to responsibilities and decision making of senior individuals **(3) F&P Regime enhancements** in relation to ongoing assessment of individuals' fitness and probity for senior positions and **(4) a unified enforcement process**, aiming to allow the CBI to pursue individuals directly.
- ▶ Following thematic inspections across a sample of banks and insurers, the CBI sent another **“Dear CEO” letter** on **17 November 2020** to regulated FSPs **noting a wide divergence of standards** in the implementation of the F&P regime. Areas highlighted were around the role of the Board; conducting due diligence; outsourcing of roles; engagement with the CBI and the role of the Compliance function.



“The Senior Executive Accountability Regime: The Central Bank’s Expectations and Insights for Boards” - Derville Rowland , CBI Director General, (May 2019)

Components

1. Conduct Standards

- ▶ Common Standards for all employees - the binding obligations on firms and individuals to conduct themselves with honesty and integrity, to act with due skill, care and diligence in the conduct of their business and to co-operate with relevant regulatory authorities.
- ▶ Additional Standards for Senior Management
- ▶ Business Standards



SEAR will initially apply to credit institutions, certain insurance and investment firms and third country branches of all of these

2. A Senior Executive Accountability Regime (SEAR)

- ▶ Prescribed Responsibilities which must be allocated to individuals carrying out Senior Executive Functions (SEFs)
- ▶ Statements of Responsibilities for each SEF
- ▶ Responsibilities Map which illustrates key management and governance responsibilities



Senior Executive Functions are board members, executives reporting directly to the board and heads of critical business areas

3. Enhancements to the current Fitness & Probity regime

- ▶ To strengthen onus on firms to proactively assess individuals taking up of senior positions
- ▶ To provide the Central Banks with the ability to investigate some people who performed controlled functions in the past

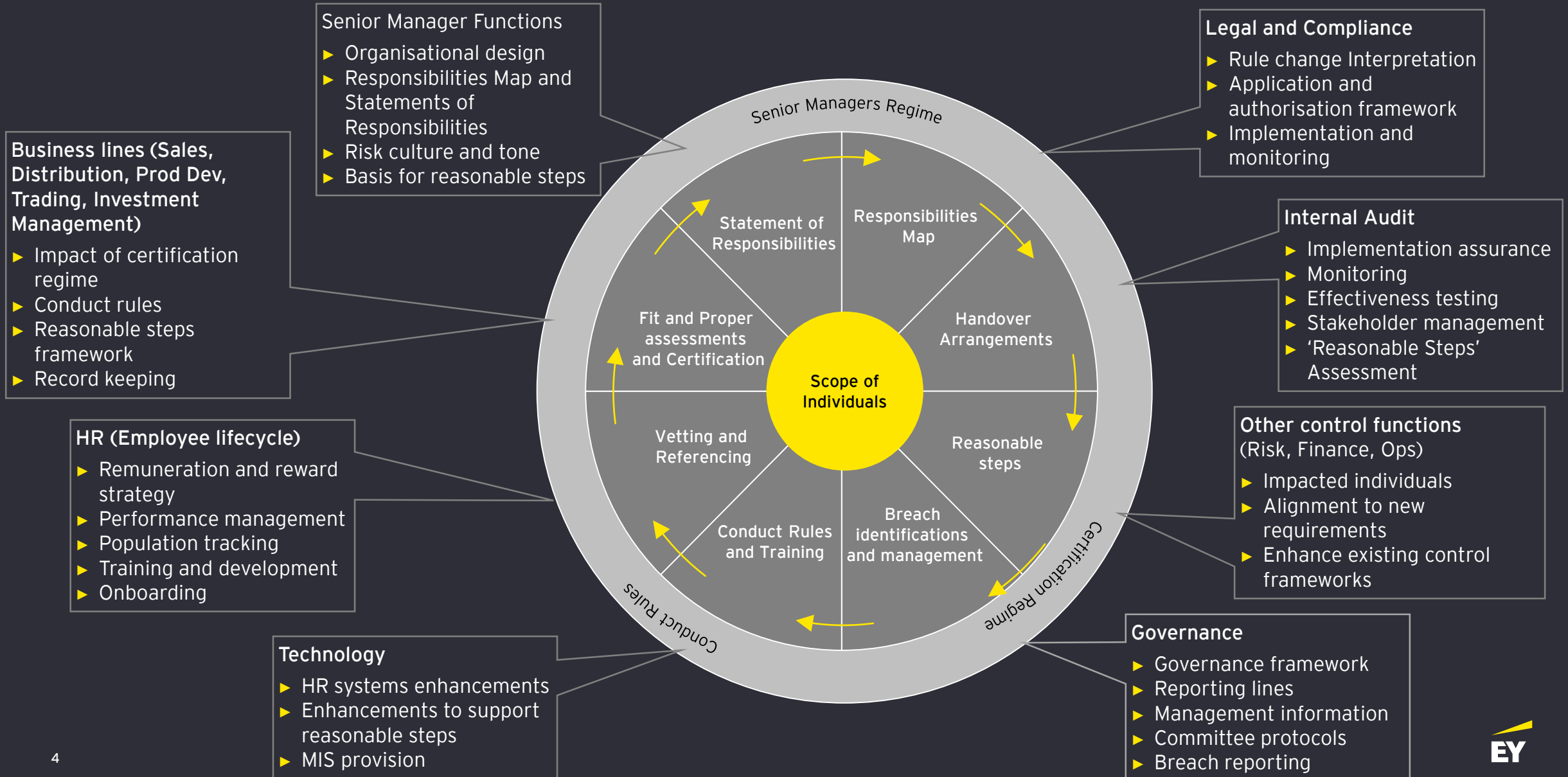
4. Unified Enforcement Process

- ▶ Breaches of Conduct Standards subject to direct enforcement action
- ▶ Breaking of the current link between the conduct of an individual and a firm's wrongdoing ('participation') to allow the CBI to pursue individuals directly for their misconduct

"Combined, the SEAR, the F&P Regime and the Conduct Standards will support the objective of individual accountability - to embed a culture of ethical compliance in regulated firms".

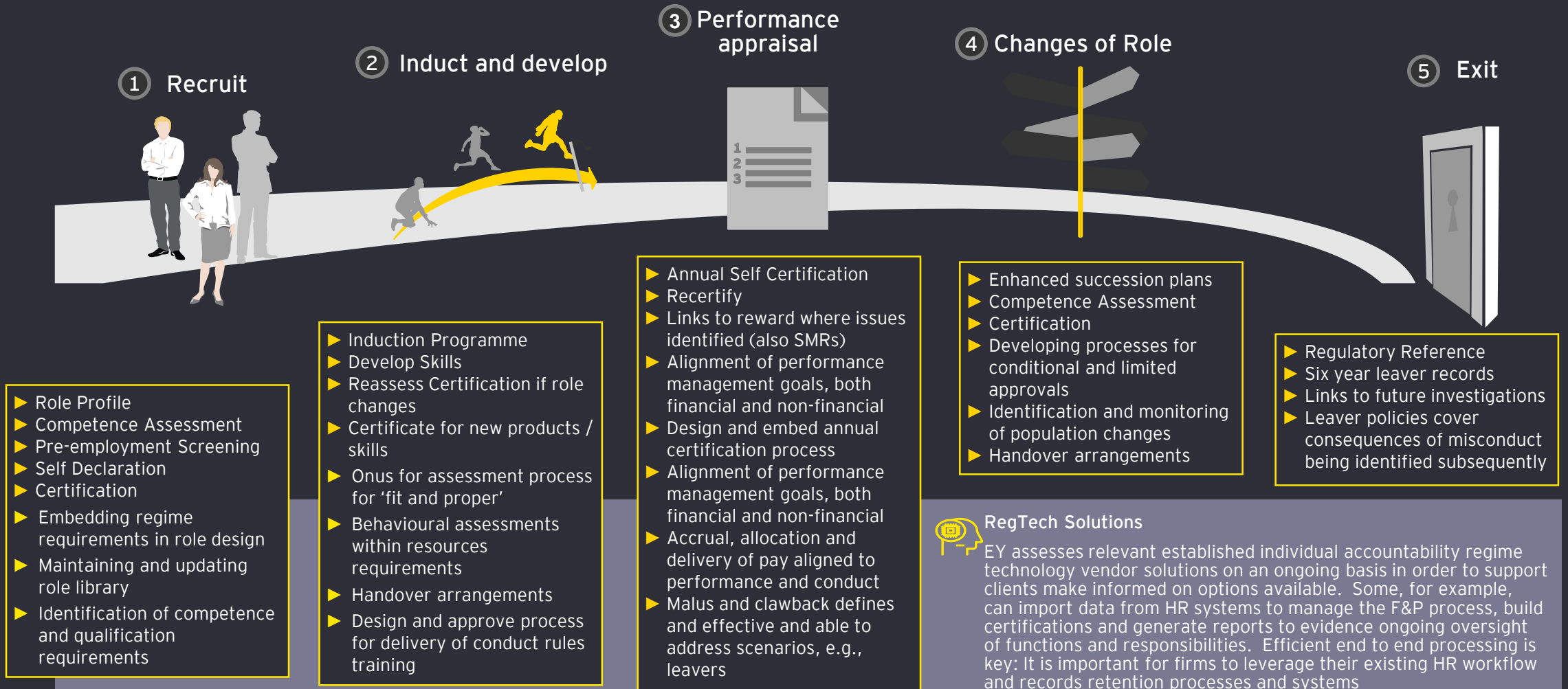
Derville Rowland 2 May 2019

All elements of the business operating model are impacted



.. and all stages of the employee lifecycle

The intention of SEAR is to ensure that individuals who hold senior office in financial services firm take personal responsibility and are accountable for their decisions. Firms will need to assess how the obligations are met and how evidenced throughout the tenure of senior individuals in their roles



Some learnings from the UK regime implementation and post implementation review

Challenges	Recommendations
<p>Communication: Early engagement with senior management is critical in light of increased staff sensitivity given personal liability</p>	<p>A detailed communication plan coupled with briefing sessions with Senior Executive Functions (“SEFs”) on the personal impacts of the regime</p>
<p>Leadership: Determining the population of in-scope leadership roles and associated responsibilities early will highlight overlaps and underlaps</p>	<p>Appoint an Accountable Executive with sufficient seniority who can act as an arbiter and has ultimate decision making authority. Typically this will be the CCO or CRO</p>
<p>Effort Assessment: SEAR will leverage a number of existing processes and controls and assessing their maturity and fitness for purpose is key</p>	<p>Current state assessment will lead to a targeted action plan that avoids unnecessary work (and facilitates better resource planning, better budgeting and alignment with other projects)</p>
<p>HR Impact: Firms have underestimated the impact on HR processes and systems throughout the employee lifecycle and the lead time required to update them</p>	<p>Early involvement of HR is key to identifying impacted processes and systems and agreeing next steps</p>
<p>Regulatory Challenge: Regulators have taken a close interest in the allocation of responsibilities and have challenged firms where they believe that the most senior individual is not “on the hook” and where responsibilities are not clearly set out</p>	<p>External or internal independent review may give insight into areas of potential regulatory challenge</p>
<p>Documentation: Responsibility statements, responsibility maps and governance maps should be seen as a collection of documents that present a complete picture of how the business operates from an ownership and decision making perspective.</p>	<p>Start with Board, then executive management. Review responsibility statements side by side for consistency. Review all Board and Executive Statements of responsibility against business operations and authorities</p>
<p>Evidencing Reasonable Steps: Accountable executives will expect support in evidencing that they are taking reasonable steps and in demonstrating control of allocated accountabilities</p>	<p>Develop a reasonable steps framework which covers organisation structure, delegation, people risk, the control environment and risk management for each business and control function to follow</p>
<p>Clarity on Conduct: Transparency around the criteria and process for determining what amounts to a conduct rule breach is critical so that employees are fully engaged</p>	<p>Design a process whereby criteria for a breach is clear and where the decision making process includes senior leadership from across functional areas (e.g. not solely compliance).</p>

Suggested steps: Now, Next and Beyond

NOW

NEXT

BEYOND

Priority Focus Areas on a 'no regrets' basis

REVIEW CURRENT GOVERNANCE AND COMMITTEE STRUCTURES

REVIEW ORGANISATIONAL DESIGN OF SENIOR MANAGEMENT TEAM

REVIEW AND MAP CURRENT HR PROCESSES AND ACTIVITIES

TECHNOLOGY ENABLEMENT

Key Activities:

- ▶ Review terms of reference and membership of each governance committee, board and executive management (FCA's applicability of SMCR to itself a good guide)
- ▶ Assess how committee discharges its responsibilities
- ▶ Review quality of information provided for decision making
- ▶ Assess records of basis for decisions taken

- ▶ Revisit 2019 Dear CEO letter - are existing Fitness and Probity standard being met ?
- ▶ Using current job descriptions / role profiles, create statements of responsibility for each PCF
- ▶ Align to create responsibilities map
- ▶ Create Responsibility Assignment Matrix (RACI) for internal frameworks and activities so that lines of responsibility are clear
- ▶ Conduct Senior Executive Interview across full SEF population



FG19/2: SM&CR: Guidance on statements of responsibilities and responsibilities maps for FCA firms

- ▶ Job profiles/descriptions
- ▶ Talent, succession management
- ▶ Delegation of duties /responsibilities
- ▶ Performance management
- ▶ Development and communication of conduct standards
- ▶ Recruitment, assessment and on boarding
- ▶ Conduct & Breach management
- ▶ Learning and induction
- ▶ Exits/Handovers/ Regulated References
- ▶ Remuneration polices
- ▶ Vetting and referencing

- ▶ Analyse capability to update in- house records of annual F&P assessment of SEFs and Certified roles using regulatory compliance technology solutions
- ▶ Define SEF employees and Certified Persons HR record maintenance and storage process
- ▶ Design and implement technology solutions for identified gaps and evidencing of reasonable steps

Examples of SEAR/SMCR RegTech solutions:



- Redland Solutions
- Worksmart
- Gecko Governance etc.



How EY Can Help

- ▶ A global firm, EY has supported clients with the introduction Individual Accountability regimes in other jurisdictions
- ▶ The EY Financial Services team in Ireland is part of an EMEIA-wide Financial Services team and works on a daily basis with colleagues across the region
- ▶ EY has been actively engaged in the SEAR debate and in helping interested stakeholders understand and prepare for the implications of the proposed changes
- ▶ EY teams have worked closely with a large number of clients in adapting to Individual Accountability and Certification regimes
- ▶ EY has worked with the regulator to review the embeddedness individual accountability regimes
- ▶ EY has an established team of subject matter resources with extensive knowledge of governance, financial services regulatory reform and regulatory expectations
- ▶ EY will help you address the challenges that SEAR poses to your business model and has the necessary tools, alliances and breadth of skills and experience to partner with you
- ▶ EY will ensure that a solution is designed that leverages existing capabilities and that is appropriate to the nature and complexity of your organisation

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