



Governance & Professionalism Policy
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS

By email: cp17-40@fca.org.uk

21 February 2018

Dear Sir/Madam

Re: BVCA response to CP17/40: Individual Accountability: Transitioning FCA firms and individuals to the Senior Managers & Certification Regime

We are writing on behalf of the British Private Equity and Venture Capital Association (“**BVCA**”), which is the industry body and public policy advocate for the private equity and venture capital industry in the UK. With a membership of over 600 firms, the BVCA represents the vast majority of all UK based private equity and venture capital firms, as well as their professional advisers.

Our members have invested over £27 billion in nearly 3,900 UK-based companies over the last five years. Companies backed by private equity and venture capital in the UK employ around 385,000 people and 84% of UK investments in 2015 were directed at small and medium-sized businesses.

The BVCA welcomes the opportunity to respond to the FCA’s consultation on transitioning firms and individuals to the Senior Managers & Certification Regime (“**SM&CR**”).

Our responses to the FCA’s questions

We have limited our response to those issues that specifically affect private equity and venture capital firms. Given this, we have responded to the below selected questions only.

Q1. Do you have any comments on our proposed transitional arrangements?

We support the content and timings within the proposed transitional arrangements and the FCA’s proposed approach. The proposals create needed certainty for firms and reduce the administrative burden that would be associated with requiring non-Enhanced Firms to submit conversion documentation.

In particular, the following elements are welcomed:

- 1) not requiring firms to obtain regulatory references for existing employees who will be performing the same role after the start of the new regime;
- 2) allowing firms 12 months to complete their fitness and propriety assessments and certification paperwork; and
- 3) giving firms 12 months to apply the Conduct Rules to Other Conduct Rules Staff.



Q10: Do you have any comments on our proposed changes to forms?

We welcome the FCA's approach in providing certainty to firms on the new and amended forms for notifications and applications under the SM&CR.

Q11: Do you have any feedback on our proposed amendments to the Fitness & Propriety questions?

We welcome the improved clarity and reduction in the range of questions. In particular, we support the FCA's proposed clarification of a 10 year time limit regarding the declaration of civil proceedings.

Q12: Do you have any comments on our proposal to extend the use of REP008 to all SM&CR firms?

Our main concern with requiring all SM&CR firms to submit REP008 is the lack of materiality threshold for reporting Conduct Rule breaches. Given the positive nature of this obligation on firms, our view is that there should be a greater sense of materiality in determining when and how to report Conduct Rule breaches.

While we appreciate that a similar reporting requirement exists under the current approved persons regime, the existing requirement catches a much smaller population of employees than under the SM&CR, given the wide application of the Conduct Rules.

Furthermore, we do not see how this onerous obligation to keep the FCA informed on Conduct Rule breaches fits in with the greater responsibility over individual accountability that the FCA expects firms to take under the new regime.

Q13: Do you have any comments on our proposal to require a nil return to be submitted where no Conduct Rules breaches have occurred, and to apply the late returns fee to late or non-submitters of REP008?

We also consider that the proposal regarding the submission of a nil return is excessive. Under the proposals, the severity of the breach and the seniority of the individual are not taken into account. It would be more proportionate to limit this periodic obligation to employees that are subject to the Certification Regime.

For all other employees subject to the Conduct Rules, we believe notifications should be event-driven and firms should only report material Conduct Rule breaches by such employees. For such event-driven notifications, it would also be more appropriate for firms to use Connect to submit information to the FCA, rather than GABRIEL (which is designed for regular, scheduled reporting).

We would be very keen to discuss the contents of this letter with you and look forward to hearing from you in order to establish whether a meeting of this sort is possible.



Yours faithfully,

A handwritten signature in blue ink, appearing to be 'Tim Lewis', written in a cursive style.

Tim Lewis
Chair, BVCA Regulatory Committee