

A response to FCA CP 17/42

The Duty of Responsibility for insurers and FCA solo-regulated firms

21 February 2018

Introduction

On behalf of our members, UK Finance and AFME welcome the opportunity to comment on FCA CP17/42 *The Duty of Responsibility for insurers and FCA solo-regulated firms*¹.

UK Finance is a new trade association which was formed on 1 July 2017 to represent the finance and banking industry operating in the UK. It will represent around 300 firms in the UK providing credit, banking, markets and payment-related services. The new organisation brings together most of the activities previously carried out by the Asset Based Finance Association, the British Bankers' Association, the Council of Mortgage Lenders, Financial Fraud Action UK, Payments UK and The UK Cards Association.

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia. AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

Comments on FCA CP17/42

UK Finance and AFME are supportive of the extension of the Senior Managers' and Certification Regime (SMCR) to cover FCA solo-regulated firms. As we do not represent insurance firms we have no specific view on its extension to cover all insurers.

In response to the consultation paper, we would like to make the following comments:

- Chapter 2 *The Duty of Responsibility* helpfully describes the circumstances in which the FCA can take action against a Senior Manager, confirms that the burden of proof lies on the FCA and summarises its position on the Duty of Responsibility and reasonable steps.
- We also welcome the indication that what is reasonable in relation to each of the DEPP 6.2.9 considerations will be context-specific, but that it is not acceptable for a Senior Manager faced with competing priorities to deprioritise conduct concerns. We too agree that this would not be appropriate.

¹ . <https://www.fca.org.uk/publication/consultation/cp17-42.pdf>

- We also agree that the definitional changes to the Handbook proposed in the July CPs have the effect of applying DEPP 6.2 to Senior Managers of the firms that will be newly in scope, so do not see any requirement to amend the existing guidance.

Responsible executives

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