Friday, May 8, 2020

On May 6, the Financial Conduct Authority (FCA) published a statement on the modification by consent (the Modification) in relation to the Senior Managers and Certification Regime (SM&CR) to extend the maximum period firms can arrange cover for absent senior managers as a result of the COVID-19 pandemic (the Statement).

The Statement sets out how the FCA has modified the 12-week rule to support firms using temporary arrangements. Firms can now extend the maximum period to arrange cover for a senior manager without being approved, from 12 weeks to 36 weeks, in a consecutive 12-month period.

The Modification is designed to give firms flexibility in managing their governance arrangements during the COVID-19 pandemic. The Modification by consent will take effect from the date a firm applies for it and will end on April 30, 2021. For a list of other measures introduced by the FCA to assist firms’ governance, please see the Katten advisory on the FCA’s expectations of solo-regulated firms, available here.

According to the Statement, firms are also allowed to allocate prescribed responsibilities of the absent senior manager to an individual standing in for the absent senior manager.
Firms are expected to clearly document any changes to managers’ responsibilities, but they will not be required to submit Form A applications or Form J and any Statement of Responsibilities notifications, where the changes are temporary and directly related to the COVID-19 pandemic.

Firms that want to use the Modification should submit an application into the FCA’s Connect system. The FCA will list firms that have applied for the Modification on its website but will not identify if individuals have been ill with COVID-19.

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