Martin Wheatley CEO FCA

Speech delivered July10th 2015, City and financial Conference London.

From Study to Implementation

Accountability, from debate to reality

Published: 14/07/2015 Last Modified: 14/07/2015 / Author: Martin Wheatley

Speech by Martin Wheatley, CEO of the Financial Conduct Authority, delivered at the City & Financial conference, London. This is the text of the speech as drafted, which may differ from the delivered version.

It is a pleasure to join everyone here this morning and thanks to City & Financial for hosting this event.

As you will have seen, the FCA published its final rules on the new banking accountability framework on Tuesday, on the same day that the PRA released their final rules. This represents the final building block in our regime which seeks to encourage greater individual accountability in banking, starting with Senior Management, and flowing down to staff at all levels.

This publication represents the end of an intensive period of consultation and policy development. We have worked closely with the PRA, firms and other stakeholders, and this week's documents provide the information that firms need to prepare for the

The focus of industry needs to shift now from policy debate and onto practical implementation. I entirely appreciate that the regime brings with it some challenges, so I am here today to focus on the practicalities of meeting these challenges, and to dispel some of the myths surrounding the changes.

Before doing that though, I want to set this in context. These changes are part of a wider agenda of cultural change within firms. This is the real prize. At their heart organizations are simply collections of individuals arranged around a common goal. And the 'culture' of these organizations, the rules both spoken and unspoken, are what dictate in reality the behaviors that are acceptable and those that aren't. That is why is it so important to recognize that corporate accountability has to start with individual responsibility. The two go hand in hand.

I have said before that the 'tone at the top' is increasingly positive. Our new regime is an important step towards hardcoding this change, and spreading it throughout firms and our wider industry.

So what does it entail? I'd like to provide a quick overview of the building blocks of the new regime. I'll then discuss how we believe the regime should be implemented. And finally I'll tackle some of concerns we've heard head on.

Overview of changes (recap of the basics)

There are in essence three limbs to the new accountability framework: the Senior Managers Regime, the Certification Regime and the Conduct Rules.

Firstly the Senior Managers Regime, which focuses on individuals who hold key roles or have overall responsibility for a whole area of a bank, or systemic investment firm. These are the people who we will approve individually.

The second limb is the Certification Regime. This applies to anyone who could pose a risk of significant harm to the firm or any of its customers – for example staff who give investment advice or administer benchmarks. We won't pre-approve these people, in the way that we did under our Approved Persons Regime. Instead, firms will certify that they are fit and proper for their roles on an on-going basis, formally confirming this annually.

The third limb is the Conduct Rules - high level standards of conduct that will apply directly to everyone. They seek to make explicit the 'common sense' standards that all staff should already be adhering to. Standards like acting with integrity; and observing proper standards of market conduct. They will eventually apply to nearly all staff in banks and the largest investment firms.

Implementation in practice

We understand that some firms are worried about the timetable for implementing the new regime and the amount of work involved.

- **performance management that ensures staff are properly equipped for their roles**
- **training that helps all staff to understand what is expected of them; and**
- **at its heart - considering consumer and market outcomes as part of everyday decision making**

As I said, implementing the new regime requires some important changes. We expect Executive Committees and Boards to be engaged. To satisfy themselves that their governance structures are compatible with the spirit of the regime and the responsible management of their firm. But this doesn't necessarily mean major process overhauls. There is a real danger of over-engineering the solution.

As I have said, we have heard positive noises from Boardrooms about the importance of changing culture and behavior. The changes firms need to make to meet our rules also further these aims.

In our Policy Statement we have outlined the practical steps firms will need to take ahead of commencement next March.

We explain how firms – even complex groups – will need to allocate senior management responsibilities in simple stages. For a group, this starts with working out which of your entities are caught and how they are linked together. Next, it involves thinking about what the different entities actually do – what activities they carry out and how significant they are.

From here, firms identify the individuals that hold Senior Management Functions; these are your 'Senior Managers' and will include people like the chief executive, executive directors and so on. A series of responsibilities then need to be allocated to these people. Most of these are already well understood and include responsibility for countering financial crime or for training senior staff.

Importantly, firms also need to think about any gaps – is there anything missing? Or anyone? Senior managers who have overall responsibility for a whole area or activity in a firm need to be added to the list, regardless of job title. The regime is not designed to re-invent the way that firms organize themselves – but to reflect – and clarify - how this operates in practice.

Finally firms then record the resulting allocation of who is doing what – in the form of short statements for each individual, and an overall map for the firm or group as a whole.

A proportionate approach

I would now like to take this opportunity to dispel some of the myths surrounding the new regime.

Recently some Chief Execs expressed concerns to me that the regime was capturing the level below senior management because individuals were delegating complementary to the collective responsibility shared by directors as members of the board. Knowing who is doing what does not weaken a Board – it strengthens it.

The overall aim is clear – we want to see standards of individual conduct rise across firms at all levels. The regime is designed to be inherently proportionate, and to fit with the realities of running complex financial services firms.

The overall aim is clear – we want to see standards of individual conduct rise across firms at all levels. The regime is designed to be inherently proportionate, and to fit with the realities of running complex financial services firms.

There are several examples of how we have ensured a proportionate approach in practice. For example, we have already removed from scope non-executives who do not have specific roles on the Board. This was a direct response to feedback from firms, who felt that including all NEDs would be disproportionate.

We have tailored our approach to smaller firms, making it simpler and less burdensome. And we've lessened the reporting requirements for all firms to remove costs.

Additionally, by staggering the 'switch on date' for some of the rules, we are ensuring firms can spread the load of preparing them and their staff.

And although certification represents a shift in onus, from a regulator run gateway to a firm based assessment of fitness and competence, this should not be new. This is something Andrew Tyrie, whose committee provided the impetus for this work, has commented on this week. Firms should already know who their key staff are that can cause them or their customers damage. And these people should already be acting appropriately. Certification builds on this concept – it doesn't invent it.

And at the other end of the scale we have baked in practical considerations of larger, international firms. For example, we have provided additional guidance where business lines are jointly headed or jobs are shared, and have given some concrete examples of allocating responsibilities in practice. This reflects our experience of supervising large firms in practice.

We are also committed to working closely with firms as they prepare for the new regime. This will also help us to ensure consistency in our approach across firms – a justifiable concern of industry.

Firms are understandably keen to know more about the 'Presumption of Responsibility'. Under the Banking Reform legislation, where a firm breaches our rules, the relevant senior manager can be found guilty of misconduct – and subject to disciplinary action – unless they satisfy the FCA that they took reasonable steps to avoid the breach.

What we deem to be reasonable steps must turn on the specific circumstances at the time. And we mean that. Not the steps that the regulator or the firm wish had been taken in hindsight. It will be based on the known facts at the time.

By way of example, we may look for you to demonstrate that you have established and tested your control frameworks. Have you considered whether your governance arrangements are appropriate? Can you demonstrate that you have implemented adequate training? That you have clearly communicated to your staff their roles and responsibilities? Have systems or processes been improved as a result of lessons learned? Which of these are relevant, if any of them, will have to take into account what has actually happened.

Some have asked about delegation. The presumption does not prevent senior managers from delegating tasks and activities where this is appropriate. What it does prevent is individuals washing their hands of ultimate accountability where they delegate. So in practice we are simply asking senior managers to delegate appropriately. And by that I mean to a person with the necessary skills and expertise, and then to take reasonable steps to oversee this delegated work effectively.

I'd like to stress that we already expect senior managers to be taking the sorts of 'reasonable steps' to avoid conduct breaches that I have described. Any responsible senior manager will already be doing what we are asking for as part of their day to day role, and the presumption doesn't require Senior Managers to go beyond this. It should only concern those people who are not acting responsibly, and this is the point.

Finally, I want to reiterate that we will use our enforcement powers proportionately and fairly – including the Presumption of Responsibility. We will not go hunting for scalps.

So as we move towards commencement the final points of detail will also fall into place. In the coming weeks, we will bring forward near final rules on our regime for overseas branches – we understand many firms have subsidiaries and branches and so we are working on aligning the regimes.

We will also consult on strengthening regulatory references. Firms questioned whether these are as strong as they could be as part of the Fair & Effective Markets Review. For example, firms have told us that they support a standard template to help bring consistency to references and what is included or not. We're looking at that and other ideas for improving the quality of references.

A shared goal

I want to end by reminding everyone of what we are all aiming for – industry, regulators, government and the general public.

> *This is about the importance of individual decision making and behavior. We must recognize and*

I know that much of the press coverage up until now has been negative, focusing on risks to individuals and the wider industry. To an extent, this was inevitable; however it is not necessarily helpful and can distract us from the bigger picture. Of course when legislation introduces some called a 'presumption of responsibility' – this draws attention. But if I ask you if people in banks should act with integrity, the answer should be obvious and unanimous.

Scandals such as FX and LIBOR remind us of the importance of ensuring that the standards we expect permeate all aspects of industry. But these scandals should not be taken out of context. I think we have every reason to be positive about the ability of banks and the industry more generally to prove itself well-equipped to adopt, and adapt to, a regulatory regime that prizes individual accountability highly.

Our reforms will help firms and regulators to raise the bar for conduct by making common sense standards explicit. Simply put anything less will not and should not be tolerated by our industry. This creates a better environment for everyone – and we must not lose sight of this whilst in the detail.

As I've said before – we should have nothing to fear from high standards.