

Chapter 12

Appointed representatives



12.7 Notification and reporting requirements

Notification of appointment of an appointed representative.....

12.7.1

R

- (1) This *rule* applies to a *firm* which intends to appoint an *appointed representative* or *FCA registered tied agent*.
- (2) [deleted]
- (3) A *firm* to which this *rule* applies must complete and submit the form in ■ SUP 12 Annex 3 to be received by the *FCA* no later than 30 days before the commencement of *regulated activities* by the proposed *appointed representative*.
- (4) [deleted]

12.7.1A

R

- (1) A *firm* other than:
 - (a) a *credit union*; or
 - (b) a *firm* which intends to appoint an *appointed representative* to carry on only *credit-related regulated activity*;
 must submit the form in ■ SUP 12 Annex 3 via online submission at the *FCA*'s website at <http://www.fca.org.uk> or any of the methods set out in ■ SUP 15.7.4R to ■ SUP 15.7.5AR (Method of notification).
- (2) A *credit union* or a *firm* which intends to appoint an *appointed representative* to carry on only *credit-related regulated activity* must submit the form in ■ SUP 12 Annex 3 R in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the *FCA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit the form in ■ SUP 12 Annex 3 R in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).

[**Note:** See ■ SUP 12.7.10 G to ■ SUP 12.7.11 G regarding notification in the event of online failure.]

12.7.2

G

A *firm*'s notice under ■ SUP 12.7.1 R should give details of the proposed *appointed representative*, including:

- (1) the name of the *firm's new appointed representative* (if the *appointed representative* is a *body corporate*, this is its registered name);
- (2) any trading name under which the *firm's new appointed representative* carries on a *regulated activity* in that capacity;
- (2A) if the *appointed representative* is a company, its company registration number;
- (3) a description of the nature of the *regulated activities* which the *appointed representative* will be permitted or required to carry on and for which the *firm* intends to accept responsibility;
- (4) any restrictions imposed on the *regulated activities* for which the *firm* intends to accept responsibility;
- (5) where the appointed representative is not an individual, the name of the individuals who are responsible for the management of the business carried on by the appointed representative so far as it relates to *insurance distribution activity*;
- (6) where the *appointed representative* will carry on *insurance distribution activities*, the name of the individual to be named as the primary point of contact at the *appointed representative* on the *Financial Services Register*;
- (7) information on the nature of any non-*regulated activities* of the *appointed representative*;
- (8) any *group* of which the *appointed representative* is a part;
- (9) the principal reason for the appointment;
- (10) information about the financial relationship between the firm and the appointed representative;
- (11) an estimate of the expected level of revenue of the *appointed representative* during the first year of its appointment by reference to its *regulated activities* and non-*regulated activities*;
- (12) whether the *appointed representative* will provide services to *retail clients*;
- (13) whether it was previously the *appointed representative* of a different *principal*; and
- (14) information on any arrangements for seconding or contracting individuals from the *appointed representative* to the *principal* for the purposes of conducting portfolio management or *dealing* activities.

12.7.2A G

A *firm's* notice under ■ SUP 12.7.1R relating to a proposed introducer *appointed representative* need not include those details specified in ■ SUP 12.7.2G(7), ■ SUP 12.7.2G(8), ■ SUP 12.7.2G(9), ■ SUP 12.7.2G(12), ■ SUP 12.7.2G(13) and ■ SUP 12.7.2G(14).

- 12.7.2B G A *firm* should only submit a notification pursuant to ■ SUP 12.7.1R having first established those matters in ■ SUP 12.4.2R or ■ SUP 12.4.6R, as applicable.

- 12.7.3 G A *firm* need not notify the *FCA* of any restrictions imposed on the *regulated activities* for which the *firm* has accepted responsibility (under ■ SUP 12.7.2 G (4)) if the *firm* accepts responsibility for the unrestricted scope of the *regulated activities*.

- 12.7.3A G Where a notification is linked to an application for approval under section 59 of the *Act* (Approval for particular arrangements), see ■ SUP 10A.13.7 G.

- 12.7.4 G
 - (1) [deleted]
 - (2) [deleted]

- 12.7.5 G To contact the *FCA's* Supervision Hub with *appointed representatives* enquiries:
 - (1) telephone 0300 500 0597; fax 020 7066 0017; or
 - (2) write to: Supervision Hub, The Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN; or
 - (3) email firm.queries@fca.org.uk.

- 12.7.6 G [deleted]

Notification of appointed representatives undertaking regulated funeral plan activity

- 12.7.6A R
 - (1) A *firm* must notify the *FCA* in good time before:
 - (a) [deleted]
 - (b) the number of its *appointed representatives* appointed to carry on *regulated funeral plan activity* increases through a material threshold.
 - (2) A *firm* that has appointed one or more *appointed representatives* to carry on *regulated funeral plan activity* must notify the *FCA* in good time before it appoints an *appointed representative* to carry on any other *regulated activity* for the first time.

- 12.7.6B G The purpose of ■ SUP 12.7.6AR is to ensure that the *FCA* is notified when a *firm* diversifies its activities around *regulated funeral plan activities*. This may be because the *firm*:
 - (1) intends to appoint an *appointed representative* for the first time where the scope of business for which the *firm* will accept responsibility will include *regulated funeral plan activity*;
 - (2) is the *principal* to one or more *appointed representatives*:

- (a) and intends to expand the scope of business of one or more of those *appointed representatives* for which it accepts responsibility to include *regulated funeral plan activity*; or
- (b) in relation to which it has accepted responsibility for *regulated funeral plan activity* only and it intends to expand the scope of business of those, or new, *appointed representatives* for which it accepts responsibility beyond such activity.

12.7.6C R A firm must submit to the FCA within 80 *business days* of each calendar year end a list of those of its *appointed representatives* which:

- (1) undertake *regulated funeral plan activity*; and
- (2) are the subject of a multiple principal agreement (for the purposes of ■ SUP 12.4.5BR).

12.7.6D G (1) For the purposes of ■ SUP 12.7.6AR(1)(b), an increase through a material threshold should be understood as referring to an increase in the number of *appointed representatives* undertaking *regulated funeral plan activity*:

- (a) from fewer than 25 to 25 or more;
- (b) from fewer than 50 to 50 or more;
- (c) from fewer than 75 to 75 or more;
- (d) from fewer than 100 to 100 or more;
- (e) from fewer than 200 to 200 or more;
- (f) from fewer than 500 to 500 or more.

(2) Any notification required by ■ SUP 12.7.6AR or ■ SUP 12.7.6CR is in addition to any notification required by any other *rule* in ■ SUP 12 (including the requirement to notify the FCA of the intention to appoint individual *appointed representatives* in ■ SUP 12.7.1R).

(3) A *firm* making a notification in accordance with ■ SUP 12.7.6AR or ■ SUP 12.7.6CR should consider the *guidance* in ■ SUP 15.7 on the form and method of notification.

Notification of changes in information given to the.....

12.7.7 R (1) [deleted] [*Editor's note*: This provision now appears at SUP 12.7.7AR.]

(1A) [deleted] [*Editor's note*: This provision now appears at SUP 12.7.7BR.]

(1B) [deleted] [*Editor's note*: This provision now appears at SUP 12.7.7CR.]

(2) Except where (4) applies, where there is a change in any of the information provided to the FCA under ■ SUP 12.7.1R, a *firm* must complete and submit to the FCA the form in ■ SUP 12 Annex 4R (Appointed representative or tied agent – change details) within ten *business days* of that change being made or, if later, as soon as the *firm* becomes aware of the change. The Appointed representative or tied agent – change details form must state that the information has changed.

(3) [deleted]

(4) A *firm* must complete and submit to the *FCA* the form in ■ SUP 12 Annex 4R (*Appointed representative or tied agent – change details*) at least 10 days before a change taking effect to the category of *regulated activities* which the *appointed representative* is permitted or required to carry on and for which the *firm* accepts responsibility.

[Note: See ■ SUP 12.7.8AR regarding the method of submission for the form in ■ SUP 12 Annex 4R.]

[Editor’s note: The provisions at SUP 12.7.7AR, SUP 12.7.7BR and SUP 12.7.7CR are not new text; they are moved from SUP 12.7.7R(1), (1A) and (1B) respectively.]

Notification of changes relating to insurance distribution activities

12.7.7A **R**

If:

- (1) (a) the scope of appointment of an *appointed representative* is extended to cover insurance distribution activities for the first time; and
 - (b) the *appointed representative* is not included on the *Financial Services Register* as carrying on *insurance distribution activities* in another capacity; or
- (2) the scope of appointment of an *appointed representative* ceases to include *insurance distribution activity*;
 the *appointed representative’s principal* must give written notice to the *FCA* of that change before the *appointed representative* begins to carry on *insurance distribution activities* under the contract (see ■ SUP 12.4) or as soon as the scope of appointment of the *appointed representative* ceases to include *insurance distribution activities*.

Notification of changes relating to tied agents, MiFID optional exemption appointed representatives and structured deposit appointed representatives

12.7.7B **R**

If:

- (1) (a) the scope of appointment changes such that the *appointed representative* acts as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative* for the first time; and
 - (b) the *appointed representative* is not included on the *Financial Services Register*; or
- (2) the *appointed representative* ceases to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative*;
 the *appointed representative’s principal* must give written notice to the *FCA* of that change before the *appointed representative* begins

to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative* (see ■ SUP 12.4) or as soon as the *appointed representative* ceases to act as a *tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative*.

Notification of changes relating to MCD credit intermediation activity

12.7.7C **R**

If:

- (1) (a) the scope of appointment of an *appointed representative* is extended to cover *MCD credit intermediation activity* for the first time; and
 - (b) the *appointed representative* is not included on the *Financial Services Register*; or
- (2) the scope of appointment of an *appointed representative* ceases to include *MCD credit intermediation activity*;

the *appointed representative's principal* must give written notice to the *FCA* of that change before the *appointed representative* begins to carry on *MCD credit intermediation activity* under the contract (see ■ SUP 12.4), or as soon as the scope of appointment of the *appointed representative* ceases to include *MCD credit intermediation activity*.

[Note: article 31(4) of the *MCD*]

Notification of changes in conditions of appointment

12.7.8 **R**

- (1) As soon as a *firm* has reasonable grounds to believe that any of the conditions in ■ SUP 12.4.2 R, ■ SUP 12.4.6 R, ■ SUP 12.4.8A R, ■ SUP 12.4.10A R or ■ SUP 12.4.10B R (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its *appointed representatives*, it must complete and submit to the *FCA* the form in ■ SUP 12 Annex 4 R (Appointed representative notification form), in accordance with the instructions on the form.
- (2) In its notification under ■ SUP 12.7.8 R (1), the *firm* must state either:
 - (a) the steps it proposes to take to rectify the matter; or
 - (b) the date of termination of its contract with the *appointed representative* (see ■ SUP 12.8).
- (3) [deleted]

Method of submission of the form in SUP 12 Annex 4R

12.7.8A **R**

- (1) Subject to (2A), a *firm* other than a *credit union* must submit the form as set out in ■ SUP 12 Annex 4 R online at <http://www.fca.org.uk> using the *FCA's online notification and application system*.
- (2) A *credit union* must submit the form in ■ SUP 12 Annex 4 R in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).

- (2A) If the notification:
- (a) relates to an *appointed representative* whose scope of appointment covers only *credit-related regulated activity*; or
 - (b) is of a change to the scope of appointment of an *appointed representative* to add or remove *credit-related regulated activity*;
- the *firm* must submit the form in ■ SUP 12 Annex 4 in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the *FCA's* information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit the form in ■ SUP 12 Annex 4 R in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).

[Note: See ■ SUP 12.7.10 G to ■ SUP 12.7.11 G regarding notification in the event of online failure.]

Notifications relating to FCA registered tied agents

- 12.7.9 **R** If a *MiFID investment firm* appoints an *FCA registered tied agent* this section applies to that *firm* as though the *FCA registered tied agent* were an *appointed representative*.

Notification of intention to act as a regulatory host

- 12.7.9A **R**
- (1) A *firm* must notify the *FCA* if it intends to begin acting as a *regulatory host*.
 - (2) The notification in (1) must be received by the *FCA* at least 60 days before the *firm* begins offering services as a *regulatory host*.
- 12.7.9B **G**
- (1) Any notification required by ■ SUP 12.7.9AR is in addition to any notification required by any other *rule* in ■ SUP 12 (including the requirement to notify the *FCA* of an intention to appoint individual *appointed representatives* in ■ SUP 12.7.1R).
 - (2) A *firm* making a notification in accordance with ■ SUP 12.7.9AR should consider the *rules* and *guidance* in ■ SUP 15.7 on the form and method of notification.
 - (3) When providing the notification required by ■ SUP 12.7.9AR, a *firm* may include information about the service that it intends to offer.

Other notifications

- 12.7.9C **G**
- (1) A *firm* should also be aware that certain matters relating to *firms' appointed representatives* may require notification to be made to the *FCA* under the *notification rules* in ■ SUP 15 and *Principle 11*.
 - (2) In particular, ■ SUP 15.3.8G(2) sets out the *FCA's* expectation that a *firm* will notify the *FCA* in accordance with *Principle 11* in the event of a significant failure of the *firm's* systems and controls for overseeing its *appointed representatives*.

Complaints and revenue data reporting

- 12.7.9D **R**
 - (1) This rule applies to a firm that has appointed one or more appointed representatives.
 - (2) A firm must, once a year, submit the form in SUP 12 Annex 6R (On-going reporting by principal firms on their appointed representatives) to the FCA including information on:
 - (a) numbers of complaints relating to each of the firm's appointed representatives; and
 - (b) revenue and remuneration attributed to each of the firm's appointed representatives.
 - (3) The form in (2) must be submitted to the FCA within 60 business days of the firm's accounting reference date using the appropriate online systems accessible from the FCA's website.
 - (4) A firm must submit the form in (2) in respect of each 12-month period to its accounting reference date in respect of which it has been a principal to one or more appointed representatives (whether or not it was a principal for the complete 12-month period).
 - (5) In relation to an appointed representative with more than one principal, a firm need not report information about the appointed representative's revenue from non-regulated activities if it is not the 'lead-principal' (see SUP 12.4.5DG).

12.7.9E **G** In complying with SUP 12.7.9DR in relation to an appointed representative with more than one principal, a firm should only report information about the appointed representative's revenue from that regulated activity for which the firm has accepted responsibility

Submission in the event of failure of FCA information technology systems

12.7.10 **G** If the FCA's information technology systems fail and online submission is unavailable for 24 hours or more, the FCA will endeavour to publish a notice on its website confirming that online submission is unavailable and that firms, other than credit unions, should use the alternative methods of submission set out in SUP 12.7.1AR (3) and SUP 12.7.8AR (3) (as appropriate), and SUP 15.7.4 R to SUP 15.7.9 G, clearly marking applications as relating to appointed representatives.

12.7.11 **G** Where SUP 12.7.1AR (3) or SUP 12.7.8AR (3) apply to a firm, GEN 1.3.2 R (Emergency) does not apply.