

Chapter 14

Requirement in relation to agents



14.1 Application

14.1.1 **R** This chapter applies to a *firm* with respect to a *credit-related regulated activity*.

Requirements

14.1.2 **R** A *firm* must not appoint an individual, who is not an *authorised person* or an *exempt person*, to act as an agent of the *firm*, in carrying on *regulated activities* of the *firm* unless all of the following conditions are met at the date of the individual's appointment and while the individual continues to act as the *firm's* agent:

- (1) the *firm* appoints the individual as the *firm's* agent;
- (2) the individual works as agent only for the *firm* and not as agent for any other principal;
- (3) the *firm* has a written contract with the individual which:
 - (a) sets out effective measures for the *firm* to control the individual's activities when acting on its behalf in the course of its business; and
 - (b) requires the individual to make clear to *customers* that the individual is representing the *firm* as the individual's principal and the name of the *firm*;
- (4) (in the case of collecting debts) receipt of repayments by the individual is treated as receipt by the *firm*; and
- (5) the *firm* accepts full responsibility for the conduct of the individual when the individual is acting on the *firm's* behalf in the course of the *firm's* business.

14.1.3 **G**

- (1) A *firm* in **CONC 14.1.2 R** would need to have a *Part 4A permission* for every activity the individual carries on as its agent for which the *firm* would need permission if it were carrying on the activity itself.
- (2) **CONC 14** uses the expression "individual" in its natural meaning as referring to a single human being.

14.1.4 **R** Where a *firm* appoints an agent in accordance with **CONC 14.1.2 R** to carry on the business of the *firm*:

- (1) the *firm* must establish, implement and maintain adequate policies and procedures sufficient to ensure compliance of the agent with the *firm's* obligations under the *regulatory system*; and
- (2) the *firm* must take all reasonable steps to identify conflicts of interest between the agent and a *client* of the *firm* that arise or may arise in the course of the *firm* carrying on *regulated activities* or *ancillary activities*.

