

Chapter 10A

FCA Approved Persons in Appointed Representatives

10A.14 Changes to an FCA-approved person's details

Moving within a firm

10A.14.1 **G** An *FCA-approved person's* job may change from time to time as a result, for instance, of a change in personal job responsibilities or a *firm's regulated activities*. Where the changes will involve the *person* performing one or more *FCA controlled functions* different from those for which approval has already been granted, then an application must be made to the *FCA* for approval for the *person* to perform those *FCA controlled functions*. The *firm* must take reasonable care to ensure that an individual does not begin performing an *FCA controlled function* until the *FCA* has granted *FCA-approved person* status to that individual in respect of that *FCA controlled function*.

10A.14.2 **G** If:

- (1) a *firm* is applying for approval for someone to perform a *controlled function* under this chapter; and
- (2) that person is also ceasing to perform *FCA controlled functions* or a *PRA controlled function* in relation to the same *firm* or in relation to a *firm* in the same group;

the *firm* should generally use Form E. Further details can be found in **SUP 10A.14.4D**.

10A.14.3 **G** If a *person* is to perform an *FCA controlled function* under this chapter in relation to a *firm* for which they already perform an *FCA controlled function* as an *approved person* (whether under this chapter or **SUP 10C** (FCA senior managers regime for approved persons in SMCR firms)) but they are not at the same time ceasing to perform an *FCA controlled function* or *PRA controlled function* for the *firm* or a *firm* in the same group, a *firm* should use Form A. See **SUP 10A.13.3D** and **SUP 10A.13.3AD** for further details.

10A.14.3A **G** See **SUP 10A.14.23G** for circumstances in which a *firm* should use Form D rather than Form A or E.

10A.14.4 **D**

- (1) A *firm* must use Form E where an *approved person* is both permanently ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more *FCA controlled*

functions in relation to the same *firm* or in relation to a *firm* in the same *group*.

- (2) A *firm* must not use Form E if:
- (a) the *approved person* has never before been approved to perform for any *firm*:
 - (i) an *FCA controlled function* that is a *significant-influence function*; or
 - (ii) an *FCA-designated senior management function*; or
 - (iii) a *PRA controlled function*;
 - (b) the *approved person* has not been subject to a *current approved person approval* from the *FCA* or *PRA* to perform:
 - (i) an *FCA controlled function* that is a *significant-influence function*; or
 - (ii) an *FCA-designated senior management function*; or
 - (iii) a *PRA controlled function*;in relation to any *firm* for more than six months; or
 - (c) any of the following apply (where applicable):
 - (i) a notification referred to in ■ SUP 10C.10.9D(4)(b) or (c) (notification obligations under the *Act* applying to *SMCR firms*) has been made or should be made; or
 - (ii) any of the circumstances in ■ SUP 10A.14.10R (Qualified Form C) apply;in relation to any:
 - (iii) *controlled functions* which that *person* is ceasing to perform (as referred to in (1)); or
 - (iv) *controlled function* that they are continuing to perform in relation to that *firm* or to a *firm* in the same *group*.
- (3) A *firm* must not use Form E if a notification has been made or should be made under:
- (a) ■ SUP 10A.14.17R (Changes in fitness to be notified under Form D);
 - (b) ■ SUP 10C.14.18R (the corresponding requirement for *SMCR firms*); or
 - (c) the corresponding *PRA* requirements to (a).
- (whichever is applicable) in relation to any *controlled functions* that that *person* is ceasing to perform (as referred to in (1)) or any *controlled function* that he is continuing to perform in relation to that *firm* or a *firm* in the same *group*.

10A.14.4A G [deleted]

(4) [deleted]

10A.14.4AA G [deleted]

- 10A.14.4AB** **G** (1) A *firm* should only use a Form E when the *candidate* is ceasing to perform a *controlled function* in a way that means that the *candidate* will cease to be approved for that *controlled function*.
- (2) See ■ SUP 10A.14.8AG to ■ SUP 10A.14.8DG for the difference between temporarily ceasing to perform a *controlled function* (which means that approval for the performance of that *controlled function* continues) and permanently ceasing to perform a *controlled function* (which means that approval for the performance of that *controlled function* lapses).
- (3) (1) and (2) are the reason that ■ SUP 10A.14.4D refers to permanently ceasing to perform a *controlled function*.

10A.14.4B **G** [deleted]

10A.14.4C **G** [deleted]

10A.14.5 **G** ■ SUP 10A.16.1 D explains how applications should be submitted.

Moving between firms

10A.14.6 **G** If it is proposed that an *FCA-approved person* will no longer be performing an *FCA controlled function* under an *arrangement* entered into by the *appointed representative* of one *principal*, but will be performing the same or a different *FCA controlled function* under an *arrangement* entered into by the *appointed representative* of a new *principal*, the new *principal* will be required to make a fresh application for the performance of the *FCA controlled function* by that *person*. This applies even if the new *principal* is in the same *group* as the old *principal* or the *appointed representative* is the same.

10A.14.7 **G** [deleted]

Ceasing to perform an FCA controlled function

- 10A.14.8** **R** (1) A *firm* must submit to the *FCA* a completed Form C (■ SUP 10C Annex 5R) no later than ten business days after an *FCA-approved person* permanently ceases to perform an *FCA controlled function*.
- (2) If:
- (a) the *firm* is also making an application for approval for that *approved person* to perform a *controlled function* in relation to the same *firm* or to a *firm* in the same *group*; and
 - (b) ceasing to perform the *FCA controlled function* in (1) has triggered a requirement to make that application for approval:
 - (i) to the *FCA* using Form E (rather than a Form A) under ■ SUP 10A or ■ SUP 10C; or

- (ii) to the *PRA* using the *PRA's* Form E in accordance with the corresponding *PRA* requirements;
it must make the notification under (1) using that Form E.

10A.14.8A **G** Permanently ceasing to perform an *FCA controlled function* means that that *person* no longer has approval to perform that function. Permanent cessation does not mean that that *person* cannot return to perform that function, rather that if they do, they will need fresh approval.

10A.14.8B **G** Examples of when an *FCA-approved person* will have permanently ceased to perform an *FCA controlled function* include moving within a *firm* (see ■ SUP 10A.14.1G to ■ SUP 10A.14.5G), moving between *firms* (see ■ SUP 10A.14.6G), resignation, dismissal, retirement, and death.

10A.14.8C **G** In cases of temporary absence (for example sick leave or parental leave) where the *firm* is keeping the same role open for an *FCA-approved person*, approval to perform the relevant *FCA controlled function* will continue and therefore the *firm* will not be required to submit a Form C. See ■ SUP 10A.14.8HG for *guidance* on interim appointments.

10A.14.8D **G** As a result, an *FCA-approved person* who returns to perform the same *FCA controlled function* following such a temporary absence will not need fresh approval.

- 10A.14.8E** **R**
- (1) If an *FCA-approved person* has been absent for more than 12 weeks, the *firm* must notify the *FCA* on Form D (■ SUP 10C Annex 6R) within seven *business days* of the end of the 12-week period.
 - (2) The *firm* must also notify the *FCA* on Form D (■ SUP 10C Annex 6R) within seven *business days* of the *FCA-approved persons* return.

10A.14.8F **G** Where a *firm* is aware that an *FCA-approved person* will be absent for more than 12 weeks that *firm* can notify the *FCA* prior to the end of the 12-week period.

10A.14.8G **G** The duty to notify in ■ SUP 10A.14.17R continues to apply during a temporary absence.

- 10A.14.8H** **G**
- (1) Where an *FCA-approved person* is temporarily absent (see ■ SUP 10A.14.8CG) a *firm* may decide to appoint another *person* to perform that *FCA-controlled function* during the interim period.
 - (2) Unless ■ SUP 10A.5.6R (The 12-week rule) applies, the *firm* will be required to make a fresh application for the performance of the *FCA-controlled function* by a *person* who has been appointed for the interim period (see ■ SUP 10A.13 (Application for approval and withdrawing an application for approval) for details).

- (3) The *firm* will be required to notify the *FCA* under ■ SUP 10A.14.8R when the *person* who was appointed for the interim period gives up the role on the return of the *person* who was temporarily absent.

10A.14.9 **G** ■ SUP 10A.16.2 R explains how notifications should be submitted.

10A.14.9A **G** [deleted]

- 10A.14.10 **R**
- (1) A *firm* must notify the *FCA* as soon as practicable after it becomes aware, or has information which reasonably suggests, that it will submit a qualified Form C in respect of an *FCA-approved person*.
- (2) Form C is qualified if the information it contains:
- (a) relates to the fact that the *firm* or the *appointed representative* has dismissed, or suspended, the *FCA-approved person* from its employment; or
 - (b) relates to the resignation by the *FCA-approved person* while under investigation by the *firm*, the *appointed representative*, the *FCA* or any other *regulatory body*; or
 - (c) otherwise reasonably suggests that it may affect the *FCA's* assessment of the *FCA-approved person's* fitness and propriety.

10A.14.11 **G** Notification under ■ SUP 10A.14.10 R may be made by telephone, email or fax and should be made, where possible, within one *business day* of the *firm* becoming aware of the information. If the *firm* does not submit Form C, it should inform the *FCA* in due course of the reason. This could be done using Form D, if appropriate.

10A.14.12 **G** A *firm* is responsible for notifying the *FCA* if any *FCA-approved person* has permanently ceased to perform an *FCA controlled function* under an arrangement entered into by its *appointed representative* or former *appointed representative* or where any such *FCA-approved person* is temporarily absent.

10A.14.13 **G** A *firm* can submit Form C or Form E to the *FCA* in advance of the cessation date. When a *person* ceases the arrangement under which they perform an *FCA controlled function*, they will automatically cease to be an *FCA-approved person* in relation to that *FCA controlled function*. A *person* can only be an *FCA-approved person* in relation to a specific *FCA controlled function*. Therefore, a *person* is not an *FCA-approved person* during any period between ceasing to perform one *FCA controlled function* (when they are performing no other *FCA controlled function*) and being approved in respect of another *FCA controlled function*.

10A.14.14 **G** Sending forms promptly will help to ensure that any fresh application can be processed within the standard response times.

Changes to an approved person's personal details

- 10A.14.15 **R** If an *FCA-approved person's* title, name or national insurance number changes, the *authorised approved person employer* must notify the *FCA* on Form D (**■** SUP 10C Annex 6R) of that change within seven *business days* of the *firm* becoming aware of the matter.
- 10A.14.16 **G** The duty to notify in **■** SUP 10A.14.15 R does not apply to changes to an *FCA-approved person's* private address.
- 10A.14.17 **R** If a *firm* becomes aware of information which would reasonably be material to the assessment of an *FCA-approved person's*, or a *FCA candidate's*, fitness and propriety (see FIT), it must inform the *FCA* on Form D, or (if it is more practical to do so and with the prior agreement of the *FCA*) by e-mail or fax, as soon as practicable.
- 10A.14.18 **G** **■** SUP 10A.16.2 R applies to the submission of Form D.
- 10A.14.19 **G** Failing to disclose relevant information to the *FCA* may be a criminal offence under section 398 of the *Act*.
- 10A.14.20 **R** The duty to notify in **■** SUP 10A.14.17 R extends to any circumstances that would normally be declared when giving the information required for section 5 of Form A or matters considered in **■** FIT 2.
- 10A.14.21 **G**
- (1) If, in relation to a *firm* which has completed the relevant Form A (**■** SUP 10C Annex 3D), any of the details relating to arrangements and *FCA controlled functions* are to change, the *firm* must notify the *FCA* on Form D (**■** SUP 10C Annex 6R).
 - (2) The notification under (1) must be made as soon as reasonably practicable after the *firm* becomes aware of the proposed change.
 - (3) This also applies in relation to an *FCA controlled function* for which an application was made using Form E.
 - (4) This *rule* also applies to a *firm* in respect of an *approved person*, to whom the grandfathering arrangements relating to the coming into force of the *Act* applied as if the *firm* had completed the relevant Form A for that *person*.
- 10A.14.22 **G** **■** SUP 10A.16.2 R also applies to the submission of Form D under **■** SUP 10A.14.21 G.
- 10A.14.23 **G** An example of where a *firm* should use Form D is when an individual who is appointed by one *appointed representative* becomes employed by another *appointed representative* but continues to perform the *customer function* for

the *firm*. The *firm* should notify the *FCA* by completing Section 1.07 of Form D.

10A.14.24 **R** [deleted]

10A.14.25 **G** [deleted]

10A.14.26 **R** [deleted]

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