

Chapter 12

Appointed representatives



12.8 Termination of a relationship with an appointed representative or FCA registered tied agent

Notification of termination or prohibited amendment of the contract

- 12.8.1** **R** If either the *firm* or the *appointed representative* notifies the other that it proposes to terminate the contract of appointment or to amend it so that it no longer meets the requirements contained or referred to in **■ SUP 12.5** (Contracts: required terms), the *firm* must:
- (1) complete and submit to the *FCA* the form in **■ SUP 12 Annex 5 R** (Appointed representative termination form) in accordance with the instructions on the form and no more than ten *business days* after the date of the decision to terminate or so amend the contract or, if later, as soon as it becomes aware that the contract is to be or has been terminated or amended.
 - (2) [deleted]
 - (3) [deleted]
 - (4) [deleted]
- 12.8.1A** **R**
- (1) Subject to (2A), a *firm* other than a *credit union* must submit any notification under **■ SUP 12.8.1 R (1)** in the form set out in **■ SUP 12 Annex 5 R**, online at www.fca.org.uk using the *FCA's online notification and application system*.
 - (2) A *credit union* must submit any notification under **■ SUP 12.8.1 R (1)** in the form set out in **■ SUP 12 Annex 5 R** and in the way set out in **■ SUP 15.7.4 R** to **■ SUP 15.7.9 G** (Form and method of notification).
 - (2A) A *firm* must submit any notification under **■ SUP 12.8.1 R (1)** that relates to an *appointed representative* whose scope of appointment covers only *credit-related regulated activity* in the form set out in **■ SUP 12 Annex 5** and 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 a notification 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 any notification in the form set out in **■ SUP 12 Annex 5 R** and in the way set out in **■ SUP 15.7.4 R** to **■ SUP 15.7.9 G** (Form and method of notification).

12.8.1B 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 the alternative methods of submission set out in SUP 12.8.1AR(3) and SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification) should be used.

12.8.1C G Where SUP 12.8.1AR (3) applies to a firm, GEN 1.3.2 R (Emergency) does not apply.

12.8.2 G In assessing whether to terminate a relationship with an appointed representative, a firm should have regard to the guidance in SUP 12.6.1-AG and be aware that the notification rules in SUP 15 require notification to be made immediately to the FCA if certain events occur. Examples include a matter having a serious regulatory impact or involving an offence or a breach of any requirement imposed by the Act or by regulations or orders made under the Act by the Treasury.

Steps to be taken on termination or prohibited amendment of the contract

12.8.3 R If a contract with an appointed representative is terminated, or if it is amended in a way which gives rise to a requirement to notify under SUP 12.8.1R, a firm must take all reasonable steps to ensure that:
(1) if the termination is by the firm, the appointed representative is notified in writing before, or if not possible, immediately on, the termination of the contract and informed that it will no longer be an exempt person for the purpose of the Act because of the contract with the firm;
(2) outstanding regulated activities and obligations to customers are properly completed and fulfilled either by itself or another of its appointed representatives;
(3) where appropriate, clients are informed of any relevant changes;
(4) all the other principals of the appointed representative of which the firm is aware are notified; and
(5) if the termination results in the wind down of relevant business, this is, or will be, undertaken in an orderly way.

Notification of approved persons on termination

12.8.4 G The firm is responsible for notifying the FCA of any approved person who no longer performs a controlled function under an arrangement entered into by a firm or its appointed representative (see SUP 10A.3 and SUP 10C.3).

Removal of an appointed representative from the Register

12.8.5 G The FCA has the power to remove from the Financial Services Register an appointed representative, whose scope of appointment covers insurance distribution activities (see SUP 12.4.9 G and SUP 12.4.10 G).

Termination of a MiFID investment firm's relationship with an FCA registered tied agent

12.8.6

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