

SUPERVISION MANUAL (PROFESSIONAL INDEMNITY INSURANCE AND APPOINTED REPRESENTATIVES) INSTRUMENT 2024

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 26 January 2024.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Notes

- E. In the annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Supervision Manual (Professional Indemnity Insurance and Appointed Representatives) Instrument 2024.

By order of the Board
25 January 2024

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

12 Appointed representatives

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12.4 What must a firm do when it appoints an appointed representative or an FCA registered tied agent?

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Appointed representative carrying on MCD credit intermediation activity

12.4.10 R Before a *firm* appoints a *person* as an *appointed representative* to carry on an *MCD credit intermediation activity*, it must ensure that the *person* has, and will maintain on a continuing basis after appointment, professional indemnity insurance in accordance with the *rules* applicable to *MCD credit intermediaries*. A firm will satisfy this requirement if:

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- (1) ~~the *appointed representative* has professional indemnity insurance which satisfies the *rules* in *MIPRU 3.2* applicable to the activities of the *appointed representative*, as if the *appointed representative* were an *MCD credit intermediary*; [deleted]~~
- (2) ~~professional indemnity insurance which would satisfy the requirements of *SUP 12.4.10AR(1)* is provided by the *firm* the *firm* has professional indemnity insurance in respect of claims for which the *firm* may be liable as a result of the conduct of its *appointed representative*, which satisfies the *rules* in *MIPRU 3.2*; or~~
- (3) the *appointed representative* holds a comparable guarantee (as understood by reference to *MIPRU 3.1.1R(3)(b)*) provided by the *firm*.

[**Note:** article 31(2) of the *MCD*]

12.4.10 AA G (1) The effect of *SUP 12.4.10AR(2)* is that a *firm* itself must take out and maintain professional indemnity insurance that covers claims for which it may be liable as a result of the conduct of its *appointed representatives* (in addition to the conduct of the *firm* and its *employees*). This approach is consistent with the requirement in *MIPRU 3.2.4R(1)* and the responsibility of the *firm* for the conduct of all of its *appointed representatives* (*MIPRU 3.2.6G*).

- (2) In addition to the professional indemnity insurance that the *principal* must hold under SUP 12.4.10AR(2), an *appointed representative* may take out, or have its own, professional indemnity insurance covering its activities to provide additional mitigation against the risk of harm to consumers, market integrity or itself.

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