

Chapter 3

Notification rules for UK recognised bodies

3.18 Membership

3.18.1

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- (1) The purpose of ■ REC 3.18 is to enable the FCA to monitor changes in the types of *member* admitted by *UK recognised bodies* and to ensure that the FCA has notice of foreign jurisdictions in which the *members* of *UK recognised bodies* are based. *UK recognised bodies* may admit *persons* who are not *authorised persons* or *persons* who are not located in the *United Kingdom*, provided that the *recognition requirements* or (for *RAPs*) *RAP recognition requirements* continue to be met.
- (2) ■ REC 3.18.2 R focuses on the admission of *persons* who are not *authorised persons* (whether or not they are located in the *United Kingdom*) and on whether the specific *recognition requirement* or (for a *RAP*) *RAP recognition requirement* relating to access to *facilities* can still be met. ■ REC 3.18.3 R focuses on the admission of *members* from outside the *UK* and whether all relevant *recognition requirements* or (for a *RAP*) *RAP recognition requirements* can be met. In the case of investment firms and *credit institutions*, only *UK* entities will be eligible to bid on a *RAP*.
- (3) The information required under ■ REC 3.18 is relevant to the FCA's supervision of the *UK recognised body's* obligations in relation to the enforceability of compliance with the *UK recognised body's* rules. It is also relevant to the FCA's broader responsibilities concerning integrity of the *UK financial system* and, in particular, its functions in relation to *market abuse* and *financial crime*. It may also be necessary in the case of *members* based outside the *United Kingdom* to examine the implications for the enforceability of *default rules* or collateral and the settlement of transactions, and thus the ability of the *UK RIE* to continue to meet the *recognition requirements*. It follows that the admission of a *member* from outside the *United Kingdom* who is not an *authorised person* could require notification under both ■ REC 3.18.2 R and ■ REC 3.18.3 R, although a single report from the *UK recognised body* covering both notifications would be acceptable to the FCA.

[Note: Paragraph 3A of the Schedule to the Recognition Requirements Regulations (■ REC 2.5.1UK) requires a *UK RIE* to inform the FCA about the content of a written agreement entered into with a member investment firm pursuing a *market making strategy* on a *trading venue* operated by the *UK RIE*]

3.18.2

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Where a *UK recognised body* admits a *member* who is not an *authorised person* of a type of which, immediately before that time, that *UK recognised*

body had not admitted to membership, it must immediately give the *FCA* notice of that event, and:

- (1) a description of the type of *person* whom it is admitting to membership; and
- (2) (in relation to a *UK RIE*) particulars of its reasons for considering that, in admitting that type of *person* to membership, it is able to continue to satisfy the *recognition requirement* in paragraph 4(2)(a) of the Schedule to the *Recognition Requirements Regulations* which applies to it.
- (3) (in relation to a *RAP*) particulars of its reasons for considering that, in admitting that type of *person* to *membership*, it is able to continue to satisfy the *RAP recognition requirement* in regulation 20 of the *RAP regulations* (Access to auctions) which applies to it.

3.18.3

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Where a *UK recognised body* admits for the first time a *member* whose head or registered office is in a jurisdiction from which that *UK recognised body* has not previously admitted *members*, it must immediately give the *FCA* notice of that event, and:

- (1) the name of that jurisdiction;
- (2) the name of any regulatory authority in that jurisdiction which regulates that *member* in respect of activities relating to *specified investments* or (for a *RAP*) relating to *emissions auction products*; and
- (3) particulars of its reasons for considering that, in admitting a *member* from that jurisdiction to membership, it is able to continue to satisfy the *recognition requirements* or (for a *RAP*) the *RAP recognition requirements* which apply to it.

3.18.4

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A type of *member* means the description of any group of *members* to whom the same generic description could be applied. For example, the description of any group of *members* separately identified or defined in the rules might constitute a type of *member* for the purposes of this section.