

## 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]

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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

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**10A.14.4C** G

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**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

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**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

	<p>(ii) to the <i>PRA</i> using the <i>PRA's</i> Form E in accordance with the corresponding <i>PRA</i> requirements;</p> <p>it must make the notification under (1) using that Form E.</p>
<b>10A.14.8A</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>Permanently ceasing to perform an <i>FCA controlled function</i> means that that <i>person</i> no longer has approval to perform that function. Permanent cessation does not mean that that <i>person</i> cannot return to perform that function, rather that if they do, they will need fresh approval.</p>
<b>10A.14.8B</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>Examples of when an <i>FCA-approved person</i> will have permanently ceased to perform an <i>FCA controlled function</i> include moving within a <i>firm</i> (see <span style="color: #000080;">■</span> SUP 10A.14.1G to <span style="color: #000080;">■</span> SUP 10A.14.5G), moving between <i>firms</i> (see <span style="color: #000080;">■</span> SUP 10A.14.6G), resignation, dismissal, retirement, and death.</p>
<b>10A.14.8C</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>In cases of temporary absence (for example sick leave or parental leave) where the <i>firm</i> is keeping the same role open for an <i>FCA-approved person</i>, approval to perform the relevant <i>FCA controlled function</i> will continue and therefore the <i>firm</i> will not be required to submit a Form C. See <span style="color: #000080;">■</span> SUP 10A.14.8HG for guidance on interim appointments.</p>
<b>10A.14.8D</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>As a result, an <i>FCA-approved person</i> who returns to perform the same <i>FCA controlled function</i> following such a temporary absence will not need fresh approval.</p>
<b>10A.14.8E</b> <span style="border: 1px solid black; padding: 0 2px;">R</span>	<p>(1) If an <i>FCA-approved person</i> has been absent for more than 12 weeks, the <i>firm</i> must notify the <i>FCA</i> on Form D (<span style="color: #000080;">■</span> SUP 10C Annex 6R) within seven <i>business days</i> of the end of the 12-week period.</p> <p>(2) The <i>firm</i> must also notify the <i>FCA</i> on Form D (<span style="color: #000080;">■</span> SUP 10C Annex 6R) within seven <i>business days</i> of the <i>FCA-approved persons</i> return.</p>
<b>10A.14.8F</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>Where a <i>firm</i> is aware that an <i>FCA-approved person</i> will be absent for more than 12 weeks that <i>firm</i> can notify the <i>FCA</i> prior to the end of the 12-week period.</p>
<b>10A.14.8G</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>The duty to notify in <span style="color: #000080;">■</span> SUP 10A.14.17R continues to apply during a temporary absence.</p>
<b>10A.14.8H</b> <span style="border: 1px solid black; padding: 0 2px;">G</span>	<p>(1) Where an <i>FCA-approved person</i> is temporarily absent (see <span style="color: #000080;">■</span> SUP 10A.14.8CG) a <i>firm</i> may decide to appoint another <i>person</i> to perform that <i>FCA-controlled function</i> during the interim period.</p> <p>(2) Unless <span style="color: #000080;">■</span> SUP 10A.5.6R (The 12-week rule) applies, the <i>firm</i> will be required to make a fresh application for the performance of the <i>FCA-controlled function</i> by a <i>person</i> who has been appointed for the interim period (see <span style="color: #000080;">■</span> SUP 10A.13 (Application for approval and withdrawing an application for approval) for details).</p>

(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]