

Supervision

Chapter 10A

FCA Approved Persons

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 an *FCA-approved person* or a *PRA-approved person* is ceasing to perform *FCA controlled functions* or a *PRA controlled function*, as well as applying for approval in respect of *FCA controlled functions* within the same firm or 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* for a *firm* for which they already perform an *FCA controlled function* as an *approved person* 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.14.4 **D**
- (1) A *firm* must use Form E where an *approved person* is both ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more *FCA controlled functions* within the same *firm* or *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 for that *firm* or 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

- (1) The *MiFID authorisation and management body change notification ITS* requires that *MiFID investment firms* (except *credit institutions*) submit the Annex III information on the ESMA template available at <https://www.fca.org.uk/publication/forms/mifid-changes-management-body-form.docx> ('Annex III template') where there is a change to a member of the *management body* or a *person* who effectively directs the business.
- (2) *MiFID investment firms* (except *credit institutions*) need to submit this Annex III template within ten *business days* of the change in the *online notification and application system* (also known as Connect).
- (3) ■ SUP 10A.14.4BD explains how this requirement fits in with the requirement to submit a Form A or Form E.
- (4) [deleted]

10A.14.4AA G

- (1) The *MiFID authorisation and management body change notification ITS* requires that a *person* applying to be a *MiFID investment firm*

(except a *credit institution*) notify the *appropriate regulator* of information about members of its *management body* by filling in the template set out in Annex II of the *MiFID authorisation and management body change notification ITS*.

- (2) This applies whether:
 - (a) the *person* is applying for *authorisation*; or
 - (b) the *person* is a *firm* applying for a variation of its *permission* that would turn it into a *MiFID investment firm*.
- (3) The requirement in ■ SUP 10A.14.4BD to fill in the MiFID Article 4 SMR Information Form along with a Form A or Form E does not apply.

10A.14.4B G

Where:

- (1) there is a change to a member of the *management body* or *person* who directs the business of a *MiFID investment firm* (except a *credit institution*) that the *firm* must notify to the *appropriate regulator* under Annex III of the *MiFID authorisation and management body change notification ITS*; and
- (2) that change also requires the *firm* to apply for approval for that member or *person* to perform an *FCA controlled function*;

the *firm* must submit to the *FCA* the completed form found in ■ SUP 10A Annex 10D (MiFID Article 4 APER Information Form) at the same time as submitting the Form A or Form E about a the *candidate*.

10A.14.4C G

MiFID investment firms (except credit institutions) who submit:

- (1) Form A and/or E; and
- (2) the MiFID Article 4 APER Information Form

about a *candidate* may complete the Annex III template outlined in ■ SUP 10A.14.4AG(1) by cross-referring to any information required by the template that has been included in the relevant Form A or Form E . The template should be annexed to the relevant Form A or Form E.

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 one *firm* or one of its contractors, but will be performing the same or a different *FCA controlled function* under an *arrangement* entered into by a new *firm* or one of its contractors (whether or not the new *firm* is in the same *group* as the old *firm*), the new *firm* will be required to make a fresh application for the performance of the *FCA controlled function* by that *person*.

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* 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* within the same *firm* or *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.14.9 **G**

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

10A.14.9A **G**

The *MiFID authorisation and management body change notification ITS* requires that a *MiFID investment firm* (except a *credit institution*) submit the information in Annex III of the *MiFID authorisation and management body change notification ITS* on the *ESMA* template where there is a change to a member of the *management body* or a *person* who effectively directs the business.

This means that a *MiFID investment firm* required to notify the *FCA* under (1) may also need to submit the Annex III information along with the Form C or Form E.

See ■ SUP 10A.14.4AG to ■ SUP 10A.14.4CG for more about these notification requirements in a case in which the *firm* is applying for approval under section 59 of the *Act* (Approval for particular arrangements).

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* 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 *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 ceased to perform an *FCA controlled function* under an arrangement entered into by its *appointed representative* or former *appointed representative*.

10A.14.13 **G** A *firm* can submit Form C or Form E and the MiFID Article 4 APER Information Form 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 *firm* for which the *person* performs an *FCA controlled function* 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 10A Annex 4D), 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]