Chapter 12

Appointed representatives
12.1 Application and purpose

General application

12.1.1 This chapter applies to a firm which is considering appointing, has decided to appoint or has appointed an appointed representative.

12.1.1A This chapter applies to a UK MiFID investment firm which is considering appointing, has decided to appoint or has appointed an EEA tied agent.

12.1.1B This chapter applies to a CBTL firm other than a CBTL lender which is considering appointing, has decided to appoint or has appointed an appointed representative in relation to CBTL business as it does to a firm.

12.1.2 This chapter does not apply to a UCITS qualifier.

12.1.3 This chapter does not apply in relation to a tied agent acting on behalf of an EEA MiFID investment firm unless that tied agent is established in the UK.

Territorial application: compatibility with EU law

12.1.1A The territorial scope of SUP 12 is modified to the extent necessary to be compatible with EU law (see SUP 12.1.1BG and 12.1.1CG for guidance on this).

12.1.1B For a UK MiFID investment firm, in our view, rules in this chapter that are within the scope of MiFID apply to its MiFID business carried on from an establishment in the United Kingdom or another EEA State.

[Note: articles 34(1) and 35(1) and (8) of MiFID]

12.1.1C For an EEA MiFID investment firm, in our view, rules in this chapter that are within the scope of MiFID apply only to its MiFID business to the extent they relate to the knowledge and competence of one or more of its UK tied agents. An EEA MiFID investment firm should complete the Appointed representative appointment form in SUP 12 Annex 3R when appointing a UK tied agent to carry on MiFID business on its behalf.

[Note: article 29(3) of MiFID]
Interaction of SUP 12 and other modules in relation to MiFID business

12.1.1D In addition to those rules in SUP 12 relating to the MiFID business of appointed representatives and tied agents, there are other MiFID obligations in the Handbook relevant to the knowledge and competence of tied agents and related compliance obligations (see SYSC 5.1, TC and FIT (in respect of appointed representatives that are approved persons)). These provisions are subject to the territorial application requirements in their respective chapters.

Purpose

12.1.2 This chapter gives guidance to a firm, which is considering appointing an appointed representative, on how the provisions of section 39 of the Act (Exemption of appointed representatives) work. For example, it gives guidance on the conditions that must be satisfied for a person to be appointed as an appointed representative. It also gives guidance to a firm on the implications, for the firm itself, of appointing an appointed representative.

12.1.3 The chapter also sets out the FCA’s rules, and guidance on these rules, that apply to a firm before it appoints, when it appoints and when it has appointed an appointed representative. The main purpose of these rules is to place responsibility on a firm for seeking to ensure that:

(1) its appointed representatives are fit and proper to deal with clients in its name; and

(2) clients dealing with its appointed representatives are afforded the same level of protection as if they had dealt with the firm itself.

12.1.4 The FCA’s website includes information about becoming and appointing an appointed representative. This information can be found at https://www.fca.org.uk/firms/appointed-representatives-principals.

12.1.5 This chapter also sets out:

(1) guidance about section 39A of the Act, which is relevant to a UK MiFID investment firm that is considering appointing an FCA registered tied agent; and

(2) the FCA’s rules, and guidance on those rules, in relation to the appointment of:

(a) an EEA tied agent by a UK MiFID investment firm;
(b) a MiFID optional exemption appointed representative; and
(c) a structured deposit appointed representative.