

Chapter 12

Appointed representatives

12.3 What responsibility does a firm have for its appointed representatives or FCA registered tied agents?

Responsibility for appointed representatives

- 12.3.1** **G** In determining whether a *firm* has complied with:
- (1) any provision in or under the *Act* such as any *Principle* or other *rule*;
or
 - (2) any provision in Part 3 of the *MCD Order*; or
 - (3) any qualifying provision specified, or of a description specified, for the purpose of section 39(4) of the *Act* by the Treasury by order,
- anything that an *appointed representative* has done or omitted to do as respects the business for which the *firm* has accepted responsibility will be treated as having been done or omitted to be done by the *firm* (section 39(4) of the *Act* and article 17 of the *MCD Order*).
- 12.3.2** **G** The *firm* is responsible, to the same extent as if it had expressly permitted it, for anything the *appointed representative* does or omits to do, in carrying on the business for which the *firm* has accepted responsibility (section 39(3) of the *Act* and article 17 of the *MCD Order*).
- 12.3.3** **G** In determining whether the *firm* has committed any offence, however, the knowledge or intentions of an *appointed representative* are not attributable to the *firm*, unless in all the circumstances it is reasonable for them to be attributed to it (section 39(6) of the *Act*).
- 12.3.4** **G** ■ SYSC 6.1.1 R requires a *MiFID investment firm* and a *credit firm* to ensure the compliance of its *appointed representative* with obligations under the *regulatory system*. The concept of a *relevant person* in SYSC includes an officer or employee of a *tied agent*.

Responsibility for FCA registered tied agents

12.3.5

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12.3.6

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The effect of section 39A(6)(b) of the *Act* is to prohibit a *MiFID investment firm* from appointing an *FCA registered tied agent* unless it has accepted responsibility in writing for the agent's activities in acting as a *tied agent*.