

Chapter 12

Appointed representatives



12.4 What must a firm do when it appoints an appointed representative or an FCA registered tied agent?

The permission that the firm needs

- 12.4.1 **R** [deleted]
- 12.4.1A **G** The effect of sections 20 (Authorised persons acting without permission) and 39(4) (Exemption of appointed representatives) of the *Act* is that the *regulated activities* covered by an *appointed representative's* appointment need to:
- (1) fall within the scope of the *principal's permission*; or
 - (2) be excluded from being *regulated activities* when carried on by the *principal*, for example because:
 - (a) they fall within article 28 of the *Regulated Activities Order* (Arranging transactions to which the arranger is a party);
 - (b) they constitute *CBTL business* and the *principal* is a *CBTL firm*; or
 - (c) the *principal* is appropriately authorised (see article 53(1A) of the *Regulated Activities Order*).
- 12.4.1B **G** In relation to *CBTL business* only a *CBTL firm* which is a *firm* can appoint an *appointed representative*.
- 12.4.1C **G** Where the *principal* is appropriately authorised for the purposes of article 53(1A) of the *Regulated Activities Order* (and so does not need *permission* to provide *non-personal recommendation advice*), the terms of the *appointed representative's* appointment will still need to cover their business in carrying on *non-personal recommendation advice*. This is because an *appointed representative* providing *non-personal recommendation advice* will only be exempt from the *general prohibition* if the *principal* has accepted responsibility in writing for the *appointed representative* in carrying on such business. An *appointed representative* is not exempt from the general prohibition simply because the *principal* is appropriately authorised for the purposes of article 53(1A) of the *Regulated Activities Order* (see also **■** PERG 8.24.1AG (Advising on investments)).

Appointment of an appointed representative (other than an introducer appointed representative)

12.4.2 **R** Before a *firm* appoints a *person* as an *appointed representative* (other than an *introducer appointed representative*) and on a continuing basis, it must establish on reasonable grounds that:

- (1) the appointment does not prevent the *firm* from satisfying and continuing to satisfy the *threshold conditions*;
- (2) the *person*:
 - (a) is solvent;
 - (b) is otherwise suitable to act for the *firm* in that capacity; and
 - (c) has no *close links* which would be likely to prevent the effective supervision of the *person* by the *firm*;
- (3) the *firm* has adequate:
 - (a) controls over the *person's regulated activities* for which the *firm* has responsibility (see **SYSC 3.1** or **SYSC 4.1**); and
 - (b) resources to monitor and enforce compliance by the *person* with the relevant requirements applying to the *regulated activities* for which the *firm* is responsible and with which the *person* is required to comply under its contract with the *firm* (see **SUP 12.5.3 G (2)**);
- (4) the *firm* is ready and organised to comply with the other applicable requirements contained or referred to in this chapter; and
- (5) the *person's* activities do not, or would not, result in undue risk of harm to *consumers* or market integrity.

12.4.2A **R** [deleted] [*Editor's note*: This provision now appears at SUP 12.4.4HR.]

12.4.2B **G** [deleted] [*Editor's note*: This provision now appears at SUP 12.4.4IG.]

Guidance on the appointment of an appointed representative

12.4.2C **G** **SUP 12.4.2R** applies before a *firm* appoints a *person* as an *appointed representative* and on a continuing basis thereafter. References in this *guidance* to an *appointed representative* should therefore be read as also referring to a prospective *appointed representative* where appropriate.

12.4.3 **G** In assessing, under **SUP 12.4.2 R(2)(a)** and (b), whether an *appointed representative* is solvent and otherwise suitable, a *firm* should determine, among other matters, whether the *person* is likely to be adversely influenced by its financial position in the conduct of the business for which the *firm* is responsible. This might arise, for example, if the *person* has cashflow problems and is not able to service its debts. *Guidance* for *firms* on assessing the financial position of an *appointed representative* is given in **SUP 12 Annex 1**.

- 12.4.4 **G** In assessing, under **■ SUP 12.4.2 R (2)(b)**, whether an *appointed representative* is otherwise suitable to act for the *firm* in that capacity, a *firm* should consider:
- (1) whether the *person* is fit and proper; *guidance* on the information that *firms* should take reasonable steps to obtain and verify is given in **■ SUP 12 Annex 2**;
 - (2) the fitness and propriety (including good character) and financial standing of the *controllers, directors, partners, proprietors and managers of the person*; *firms* seeking *guidance* on the information which they should take reasonable steps to obtain and verify should refer to *FIT* and the questions in the relevant Form A (Application to perform controlled functions under the approved person regime) in **■ SUP 10A Annex 4**; and
 - (3) the competence and capabilities of relevant *directors, partners, proprietors and managers of the person*, including whether they have:
 - (a) appropriate experience, knowledge, skills and training in relation to the activities and business carried out, or to be carried out, on behalf of the *firm*; and
 - (b) the necessary time to properly perform the tasks and functions for which they are, or will be, responsible.
- 12.4.4A **G** In considering the competence and capabilities of relevant *individuals, firms* should note that other provisions, including **■ SYSC 3.1** (Systems and controls) and **■ SYSC 5.1** (Skills, knowledge and expertise), the requirements of the Training and Competence sourcebook (*TC*) and *guidance* in the Fit and Proper test for Employees and Senior Personnel sourcebook (*FIT*) may also be relevant. See also **■ SUP 12.6.10G**.
- 12.4.4B **G** In assessing whether the *firm* has adequate controls and resources for the purposes of **■ SUP 12.4.2R(3)(a)** and **■ SUP 12.4.2R(3)(b)**, a *firm* should consider whether these:
- are commensurate to:
 - (a) the size or potential size of the *appointed representative*; and
 - (b) the nature of the *regulated activities* for which the *firm* has, or proposes to have, responsibility;
 - enable the *firm* to effectively manage conflicts of interest;
 - allow the *firm* to maintain effective oversight of the *appointed representative*;
 - enable the *firm* to identify and remediate any issues arising at the *appointed representative*; and
 - enable the *firm* to maintain a level of oversight of the *appointed representative's regulated activities* equivalent to that which would be, and ought reasonably to be, applied if:

- (a) those activities were carried on by the *firm* in a principal capacity; and
 - (b) all *individuals* engaged in those activities were employees of the *firm*,
- (and see also *Principle 3*, ■ COND 2.5.6G(1) and ■ (1A) and ■ SUP 12.6.11G).

12.4.4C

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In assessing, under ■ SUP 12.4.2R(5), whether an *appointed representative's* activities or proposed activities give rise to an undue risk of harm, a *firm* should consider, without limitation:

- (1) the nature of the risks associated with the *person's* appointment and activities or proposed activities having regard to, amongst other things, the *person's*:
 - (a) business model;
 - (b) (as applicable) senior management and governance arrangements;
- (2) the likely impact on clients or potential *clients* were a relevant risk to crystallise having regard to, amongst other things:
 - (a) the number of *clients* with which the *person* is, or is likely be, dealing;
 - (b) whether the *clients* or potential *clients* with which the *person* is, or is likely to be, dealing include those in vulnerable circumstances who may be at greater risk of harm if things go wrong;
 - (c) the likely extent of any financial loss that *clients* may suffer;
- (3) the likely impact on the *firm* were a relevant risk to crystallise including, but not limited to, the impact of a significant volume of complaints relating to the *person's* activities;
- (4) the likely impact on the continuity of the provision of services to *clients* in the event of the *person's* failure;
- (5) the potential for reputational damage which could harm the *clients* with which the *person* deals, or is likely to deal; and
- (6) the ability of its own arrangements to effectively identify and manage those risks in compliance with its obligations in SYSC.

[*Editor's note*: The provision at SUP 12.4.4DG is moved from SUP 12.4.5G.]

12.4.4D

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In determining, under ■ SUP 12.4.2R(2)(c), whether an *appointed representative* has any *close links* which would be likely to prevent the *firm's* effective supervision, a *firm* should consider the *guidance* to threshold condition 2C or 3B as applicable in ■ COND 2.3.

Practical considerations for assessment

12.4.4E

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In undertaking the assessment required by ■ SUP 12.4.2R, a *firm* should:

- (1) ensure and verify that information provided by the *appointed representative*, either at entity-level or about relevant *individuals* (■ SUP 12.4.4G(2) and ■ (3)), is accurate, sufficiently detailed and up to date;
- (2) discuss any omissions or concerns proactively with relevant *individuals* at the *appointed representative*; and
- (3) ensure that it is made aware of any changes, including to relevant *individuals* at the *appointed representative*, which may affect the quality or integrity of the information provided.

Continuing obligations after appointment: controls and resources

12.4.4F

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■ SUP 12.4.2R applies on a continuing basis. In particular:

- (1) a *firm* should re-assess whether its controls and resources remain adequate for the purposes of ■ SUP 12.4.2R(3)(a) and ■ (b) if any of the following circumstances arise:
 - (a) the size or volume of the *appointed representative's* business involving *regulated activity* increases significantly in a short period of time;
 - (b) the *firm* identifies an unusually high rate of turnover at the *appointed representative* of:
 - (i) senior management; or
 - (ii) other staff of the *appointed representative* involved in carrying on the *regulated activities* for which the *firm* has accepted responsibility;
 the *firm* identifies a significant increase in the number of *complaints* it receives about the *appointed representative*;
- the *appointed representative* changes its business model (including target market); or
- a change is made to the scope of the *appointed representative's* appointment.
- SUP 12.6A.3R requires a *firm* to carry out a review, including of the adequacy of the *firm's* controls and resources, in any of the circumstances specified in that *rule*.

Practical steps to ensure effective oversight

12.4.4G

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In order to comply with the various obligations in this chapter and having due regard to the nature of the *appointed representative's* activities and the risks associated with them, a *firm* should:

- (1) collect and scrutinise relevant management information and agree with its *appointed representative* how and when management information should be provided, the format it should take and the data it should capture;

- (2) analyse data provided by the *appointed representative* to identify emerging risks and issues;
- (3) closely monitor the delivery of the *appointed representative's* activities and business, within the scope of its appointment (for example, by reviewing call scripts or other materials provided by the *appointed representative* and organising regular meetings with them);
- (4) engage regularly with its *appointed representative*, whether through in-person meetings, telephone calls or email communication; and
- (5) establish clear processes for the escalation of issues, including service level agreements where necessary. This could include, for example, grading of issue severity based on impact and potential harm to *clients* and processes for remediation within defined timeframes. Where appropriate, such expectations should be included in the contract between the *firm* and the *appointed representative*.

[Editor's note: The provisions at SUP 12.4.4HR and SUP 12.4.4IG are not new text; they are moved from SUP 12.4.2AR and SUP 12.4.2BG respectively.]

Appointment of tied agents, MiFID optional exemption appointed representatives and structured deposit appointed representatives

12.4.4H **R**

- (1) A *firm* must ensure that:
 - (a) a *tied agent* that is an *appointed representative*; or
 - (b) a *MiFID optional exemption appointed representative*; or
 - (c) a *structured deposit appointed representative*,
 - is of sufficiently good repute and that it possesses appropriate general, commercial and professional knowledge and competence so as to be able to communicate accurately all relevant information regarding the proposed service to the *client* or potential *client*. This does not limit a *firm's* obligations under **SUP 12.4.2R**.
- (2) A *firm* must ensure that its *tied agent* or *MiFID optional exemption appointed representative* also possesses appropriate general, commercial and professional knowledge and competence so as to be able to deliver the *investment service* or *ancillary service* for which the *firm* has accepted responsibility.

[Note: paragraphs 2 and 3 of article 29(3) of *MiFID*]

12.4.4I **G**

- (1) A *firm* to which **SUP 12.4.4HR** applies should also have regard to **SYSC 5.1** (Skills, knowledge and expertise). The requirements of the Training and Competence sourcebook (*TC*) and *guidance* in the Fit and Proper test for Employees and Senior Personnel (*FIT*) may also be relevant.
- (2) *ESMA* has issued guidelines for *MiFID investment firms* specifying the criteria for the assessment of knowledge and competence. These guidelines are relevant to *tied agents* (see **SYSC 5.1.5ADG**).

12.4.5 **G** [deleted] [*Editor's note*: This provision now appears at SUP 12.4.4DG.]

Appointment representative who may be appointed by other principals

12.4.5A **G** If a *firm* proposes to appoint an *appointed representative*, but not to prohibit its appointment by any other *principals* (see ■ SUP 12.5.2 G (3)), the *firm* should, in particular:

- (1) require, in the contract, that the *appointed representative* notifies the *firm* about other *principals* (see ■ SUP 12.5.5 R (3)) and
- (2) unless the *appointed representative* is an *introducer appointed representative*:
 - (a) take reasonable steps to check whether the *appointed representative* is already appointed by one or more other *principals* and, if it is, contact those other *principals*; such steps should include asking the *appointed representative* and checking the *Financial Services Register*;
 - (b) if there are any other *principals*, agree arrangements with the other *principals* (see ■ SUP 12.4.5B R) ; and
 - (c) establish effective systems and controls for ensuring that the *appointed representative* complies with all contractual restrictions imposed, including those relating to multiple *principals* under the *Appointed Representatives Regulations* and under ■ SUP 12.5.6A R (see ■ SUP 12.6.11A R).

Multiple principals

12.4.5B **R** (1) A *firm* must not appoint a *person* as its *appointed representative* until it has entered into a written agreement (a "multiple principal agreement") with every other *principal* the *person* may have; but this does not apply to the appointment of an *introducer appointed representative* nor does it require an agreement with another *principal* which has appointed a *person* as an *introducer appointed representative*.

(2) A *firm* must not unreasonably decline to enter into a multiple principal agreement with any *principal* of his *appointed representative* unless the *firm* is relying on a prohibition on the *appointed representative* from representing any other *firms* (or is seeking to impose such a prohibition) as permitted by article 3 of the *Appointed Representative Regulations*.

(3) A multiple principal agreement must contain all the provisions which are necessary or desirable to:

- (a) set out the relationship between the *principals* of that *appointed representative*; and
- (b) protect the interests of *clients*;

including the matters set out in ■ SUP 12.4.5C.

12.4.5C **R** **Multiple principal agreement**

	Matter	Explanation
1.	Scope of appointment	The scope of appointment given by each <i>principal</i> to the appointed representative.
2.	Complaints handling	The identity of the <i>principal</i> which will be the point of contact for a complaint from a <i>client</i> (referred to as the "lead-principal" in SUP 12.4.5D G to SUP 12.4.5E G).
		An agreement that each <i>principal</i> will co-operate with each other <i>principal</i> in resolving a complaint from a <i>client</i> in relation to the appointed representative's conduct.
		The arrangements for complaints handling, including arrangements for resolving disputes between the <i>principals</i> in relation to their liability to a <i>client</i> in respect of a complaint and arrangements for dealing with referrals to the <i>Financial Ombudsman Service</i> .
3.	<i>Financial promotions</i>	The arrangements for <i>approving financial promotion</i> .
4.	Control and monitoring	The arrangements for the control and monitoring of the activities of the appointed representative (see in particular SUP 12.6.6 R (Regulated activities and investment services outside the scope of appointment) and SUP 12.6.7 G (Senior management responsibility for appointed representatives)).
5.	<i>Approved person status</i>	The arrangements for making applications for <i>approved person status</i> (see SUP 10A and SUP 10C (Approved persons) and the corresponding <i>PRA</i> requirements).
6.	Training and competence	The arrangements for training and competence (see <i>TC</i>).
7.	Co-operation	The arrangements for co-operation over any other issues which may arise from the multiple appointments, including issues which may damage the interests of <i>clients</i> dealing with the appointed representative and administrative issues.
		An agreement by each <i>principal</i> to take reasonable steps to ensure that it does not cause the appointed representative or any of its other <i>principals</i> to be in breach of their obligations to each other or under the <i>regulatory system</i> .
8.	Sharing information	The arrangements for sharing information on matters relevant to the matters covered under the multiple principal agreement and each <i>principal's</i> obligations under SUP 12.6 (Continuing obligations of firms with appointed representatives) and SUP 12.6A (Assessment of compliance).
		An agreement that each <i>principal</i> will notify each other <i>principal</i> of any information which is materially relevant to the multiple principal agreement.

12.4.5D **G**

One effect of the multiple principal agreement is to introduce a 'lead-principal' concept in relation to complaints handling for the benefit of the *client*. For example, where the *client* has been given advice by an *appointed representative* who has two *principals*, and the advice could have led to a transaction being arranged with either *principal*, the *client* will know that he

may pursue his complaint with (but not necessarily against) one of the *principals*. Whether he later decides to refer his complaint to the *Financial Ombudsman Service*, and if so, against which *principal*, will depend on the circumstances.

12.4.5E

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- (1) Under the relevant provisions in *COBS*, *ICOBS* and *MCOB*, the *customer* will receive details of how to complain to the *appointed representative* and, when a product is purchased, details of the complaints procedure for the *product provider*, *insurer* or *home finance provider*.
- (2) Under ■ DISP 1.2.1 R, a *firm* must among other things, supply summary details of its internal process for dealing promptly and fairly with *complaints* to the *customer* when it receives a *complaint*. In complying with ■ DISP 1.2.1 R, a *firm* should ensure that the "lead-principal" is clearly identified in the procedures.
- (3) The complaints procedure should also explain that the *customer* has a choice of whether to contact the *appointed representative*, the "lead-principal" or the *product provider*, *insurer* or *home finance provider* and that the "lead-principal" will be the appropriate point of contact where the *customer* does not wish to complain about a specific product or is unsure who to contact.
- (4) In other words, where the *customer*, has a doubt who to complain to the "lead-principal" is to be the point of contact for all complaints arising out of the activities of the *appointed representative*.

12.4.5F

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When considering the provisions for complaints handling (see ■ SUP 12.4.5C(2)) *firms* should consider the use of a mediation clause. If a complaint is made by a *client*, *principals* which are unable to resolve a dispute about liability to the *client* should consider all quick and effective ways of resolving the dispute, including referring the matter to the *Financial Ombudsman Service* and mediation.

12.4.5G

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It is for the *principals* to consider in each case whether it would be appropriate to show the multiple principal agreement to their *appointed representative*, or in some circumstances make their *appointed representative* a party to it.

Appointment of an introducer appointed representative

12.4.6

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Before a *firm* appoints a *person* as an *introducer appointed representative*, and on a continuing basis, it must take reasonable care to ensure that:

- (1) the *person* is suitable to act for the *firm* in that capacity (having regard, in particular, to other *persons* connected with the *person* who will be, or who are, directly responsible for its activities);
- (2) the *firm* is ready and organised to comply with the other applicable requirements contained or referred to in this chapter; and
- (3) the *person's* activities do not, or would not, result in undue risk of harm to *consumers* or market integrity.

12.4.7 G In assessing, under SUP 12.4.6 R(1), whether an *introducer appointed representative* or prospective *introducer appointed representative* is otherwise suitable to act for the *firm* in that capacity, the *firm* should determine whether the *introducer appointed representative* and those *persons* who will be, or who are, directly responsible for its activities are of sufficiently good reputation and otherwise fit and proper for that appointment. The *firm* should, as a minimum, verify the identity of a prospective *introducer appointed representative* and relevant *persons* but need not carry out the more extensive due diligence required for the appointment of an *appointed representative* under SUP 12.4.2 R.

12.4.7A G In complying with the requirements in SUP 12.4.6R, a *firm* should also have regard, so far as relevant, to the *guidance* in SUP 12.4.4BG, SUP 12.4.4CG, SUP 12.4.4FG and SUP 12.4.4GG.

12.4.8 G If a *firm* has doubts that a prospective *introducer appointed representative* or other *person* is of sufficiently good reputation and otherwise fit and proper, the *FCA* will expect it to resolve those doubts before appointing the prospective *introducer appointed representative*. For example, if a *firm* is aware that a *person's* previous appointment as an *introducer appointed representative* or *representative* was terminated, it should take reasonable steps to find out the reasons for the termination and the extent to which those reasons reflect on the *person* concerned.

Good repute

12.4.8A R Before a *firm* appoints a *person* as an appointed representative to carry on *insurance distribution activity*, it must in relation to *insurance distribution activity* ensure that the *person* will comply on appointment, and will continue to comply with, the provisions of SYSC 28.3 (Good repute) as if the *appointed representative* were a *firm*.

[Note: article 10(3) of the *IDD*]

12.4.8AA R A *firm* that has appointed an *appointed representative* to carry on *insurance distribution activity* must ensure that the *appointed representative*:

- (1) establishes, maintains and keeps appropriate records to demonstrate compliance with SYSC 28.3 (Good repute); and
- (2) provides the name of the *person* responsible for the record-keeping requirement in (1) to the *firm*.

Knowledge and ability requirements

12.4.8AB G SYSC 28.1 (Minimum knowledge and ability requirements for carrying out insurance distribution activities), SYSC 28.2 (Knowledge and ability requirements) and SYSC 28.4 (Record-keeping requirements) apply in relation to a *firm's* relevant employees. This includes its *appointed representatives* and their *employees*.

[Note: articles 10(1), 10(2) and last paragraph of article 10(8) of the *IDD*]

12.4.8B G [deleted]

Close links

12.4.8C **R** Before a *firm* appoints an *appointed representative* who does not already appear on the *Financial Services Register* ("A") to carry on *insurance distribution activity*, it must obtain from A the following information:

- (1) the identities of shareholders or members, whether natural or legal persons, that have a holding in A that exceeds 10% and the amount of those holdings;
- (2) the identities of *persons* who have *close links* with A; and
- (3) that those holdings or *close links* do not prevent the effective supervision of A by the *firm*.

[Note: article 3(6) of the *IDD*]

Inclusion on the Financial Services Register

12.4.9 **G** (1) An appointed representative must not commence an *insurance distribution activity* until they are included on the *Financial Services Register* as carrying on such activities (see **■ SUP 12.5.2 G (3)**).

(2) [deleted]

(3) [deleted]

12.4.10 **G** (1) The *FCA* has the power to decide not to include on the *Financial Services Register* (or to remove from the *Financial Services Register*) an appointed representative whose scope of appointment includes an *insurance distribution activity*, if it appears to the *FCA* that he is not a fit and proper *person* to carry on those activities (article 95 of the *Regulated Activities Order*).

(2) If the *FCA* proposes to use the power in (1), it must give the appointed representative a *warning notice*. If the *FCA* decides to proceed with its proposal, it must give the appointed representative a *decision notice*. The procedures followed by the *FCA* in relation to the giving of *warning notices* and *decision notices* are set out in **■ DEPP 2**.

(3) An appointed representative may apply to the *FCA* for a determination of the kind referred to in (1) to be revoked. If the *FCA* proposes to refuse the application, it must give the appointed representative a *warning notice*, and if the *FCA* decides to proceed with the refusal, it must give the appointed representative a *decision notice*.

Appointed representative carrying on MCD credit intermediation activity

12.4.10A **R** Before a *firm* appoints a *person* as an *appointed representative* to carry on an *MCD credit intermediation activity*, it must ensure that the *person* has, and will maintain on a continuing basis after appointment, professional indemnity insurance in accordance with the *rules* applicable to *MCD credit intermediaries*. A *firm* will satisfy this requirement if:

- (1) [deleted]
- (2) the *firm* has professional indemnity insurance in respect of claims for which the *firm* may be liable as a result of the conduct of its *appointed representative*, which satisfies the *rules* in ■ MIPRU 3.2; or
- (3) the *appointed representative* holds a comparable guarantee (as understood by reference to ■ MIPRU 3.1.1R (3)(b)) provided by the *firm*.

[Note: article 31(2) of the MCD]

12.4.10AA **G**

- (1) The effect of ■ SUP 12.4.10AR(2) is that a *firm* itself must take out and maintain professional indemnity insurance that covers claims for which it may be liable as a result of the conduct of its *appointed representatives* (in addition to the conduct of the *firm* and its *employees*). This approach is consistent with the requirement in ■ MIPRU 3.2.4R(1) and the responsibility of the *firm* for the conduct of all of its *appointed representatives* (■ MIPRU 3.2.6G).
- (2) In addition to the professional indemnity insurance that the *principal* must hold under ■ SUP 12.4.10AR(2), an *appointed representative* may take out, or have its own, professional indemnity insurance covering its activities to provide additional mitigation against the risk of harm to consumers, market integrity or itself.

12.4.10B **R**

- (1) Before a *firm* appoints a *person* as an *appointed representative* to carry on *MCD credit intermediation activity* and on a continuing basis after appointment, it must, in relation to such activities, ensure that:
 - (a) if the *appointed representative* is an *individual*, the *individual*:
 - (i) has not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and
 - (ii) has not been adjudged bankrupt (unless the bankruptcy has been discharged);

under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*; and

 - (iii) possesses the appropriate level of knowledge and competence under the *rules* in *TC* applicable to the activities of the *appointed representative*;
- (b) if the *appointed representative* is a *body corporate*, the members of the board of the *appointed representative*, and *persons* performing equivalent tasks:
 - (i) have not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and
 - (ii) have not been adjudged bankrupt (unless the bankruptcy has been discharged);

under the law of any part of the *United Kingdom* or under the law of a country or territory outside the *United Kingdom*; and

- (iii) possess the appropriate level of knowledge and competence under the *rules* in *TC* applicable to the activities of the *appointed representative*.

[Note: article 31(2) of the *MCD*]

12.4.10C G

- (1) [deleted]
- (2) An *appointed representative* must not commence an *MCD credit intermediation activity* until they are included on the *Financial Services Register*.
- (3) If an *appointed representative's* scope of appointment is to include *MCD credit intermediation activity*, the *Act* provides that that *appointed representative's principal* may not be a *tied MCD credit intermediary*.

Appointment of an FCA registered tied agent

12.4.11 R

If a *MiFID investment firm* appoints an *FCA registered tied agent*, ■ SUP 12.4.2 R and ■ SUP 12.4.4HR apply to that *firm* as though the *FCA registered tied agent* were an *appointed representative*.

[Note: paragraphs 2 and 3 of article 29(3) of *MiFID*]

Tied agents

12.4.12 G

- (1) A *tied agent* that is an *appointed representative* may not start to act as a *tied agent* until it is included on the applicable register (section 39(1A) of the *Act*). The register maintained by the *FCA* is the applicable register for these purposes.
- (2) A *MiFID investment firm* that appoints an *FCA registered tied agent* who is not registered with the *FCA* will, subject to certain conditions, be taken to have contravened a requirement imposed on it by or under the *Act* (see section 39A(6)(c) and (d) of the *Act*).
- (3) [deleted]
- (4) [deleted]
- (5) [deleted]
- (6) A *tied agent* can only act as such for one *MiFID investment firm* or *third country investment firm* (see ■ SUP 12.5.6A R (1A)).

MiFID optional exemption appointed representatives and structured deposit appointed representatives

12.4.13 G

- (1) A *MiFID optional exemption appointed representative* or a *structured deposit appointed representative* may not start to act as such until it

is included on the *Financial Services Register* (sections 39(1A) and 39(1AA) of the Act).

(2) [deleted]

Reporting of information about Directory persons

12.4.14

G

- (1) ■ SUP 16.26 (Reporting of information about Directory persons) requires an *SMCR firm* that has appointed an *appointed representative* to report information to the *FCA* in respect of any individual who is an *appointed representative Directory person*.
- (2) The *SMCR firm* should ensure that appropriate arrangements are in place so that the *SMCR firm* is able to report all relevant information about each such *appointed representative Directory person* to the *FCA* within the specified timeframes, in accordance with the requirements of ■ SUP 16.26 (Reporting of information about Directory persons).