Chapter 12

Appointed representatives
12.7 Notification and reporting requirements

Notification of appointment of an appointed representative

12.7.1 R
(1) This rule applies to a firm which intends to appoint an appointed representative or FCA registered tied agent.

(2) [deleted]

(3) A firm to which this rule applies must complete and submit the form in SUP 12 Annex 3 to be received by the FCA no later than 30 days before the commencement of regulated activities by the proposed appointed representative.

(4) [deleted]

12.7.1A R
(1) A firm other than:
(a) a credit union; or
(b) a firm which intends to appoint an appointed representative to carry on only credit-related regulated activity;

must submit the form in SUP 12 Annex 3 via online submission at the FCA's website at http://www.fca.org.uk or any of the methods set out in SUP 15.7.4R to SUP 15.7.5AR (Method of notification).

(2) A credit union or a firm which intends to appoint an appointed representative to carry on only credit-related regulated activity must submit the form in SUP 12 Annex 3 R in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

(3) Where a firm is obliged to submit an application online under (1), if the FCA’s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit the form in SUP 12 Annex 3 R in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

[Note: See SUP 12.7.10 G to SUP 12.7.11 G regarding notification in the event of online failure.]

12.7.2 G
A firm's notice under SUP 12.7.1 R should give details of the proposed appointed representative, including:
12.7.2A A firm’s notice under SUP 12.7.1R relating to a proposed introducer appointed representative need not include those details specified in SUP 12.7.2G(7), SUP 12.7.2G(8), SUP 12.7.2G(9), SUP 12.7.2G(12), SUP 12.7.2G(13) and SUP 12.7.2G(14).

(1) the name of the firm’s new appointed representative (if the appointed representative is a body corporate, this is its registered name);

(2) any trading name under which the firm’s new appointed representative carries on a regulated activity in that capacity;

(2A) if the appointed representative is a company, its company registration number;

(3) a description of the nature of the regulated activities which the appointed representative will be permitted or required to carry on and for which the firm intends to accept responsibility;

(4) any restrictions imposed on the regulated activities for which the firm intends to accept responsibility;

(5) where the appointed representative is not an individual, the name of the individuals who are responsible for the management of the business carried on by the appointed representative so far as it relates to insurance distribution activity;

(6) where the appointed representative will carry on insurance distribution activities, the name of the individual to be named as the primary point of contact at the appointed representative on the Financial Services Register;

(7) information on the nature of any non-regulated activities of the appointed representative;

(8) any group of which the appointed representative is a part;

(9) the principal reason for the appointment;

(10) information about the financial relationship between the firm and the appointed representative;

(11) an estimate of the expected level of revenue of the appointed representative during the first year of its appointment by reference to its regulated activities and non-regulated activities;

(12) whether the appointed representative will provide services to retail clients;

(13) whether it was previously the appointed representative of a different principal; and

(14) information on any arrangements for seconding or contracting individuals from the appointed representative to the principal for the purposes of conducting portfolio management or dealing activities.
A firm should only submit a notification pursuant to SUP 12.7.1R having first established those matters in SUP 12.4.2R or SUP 12.4.6R, as applicable.

A firm need not notify the FCA of any restrictions imposed on the regulated activities for which the firm has accepted responsibility (under SUP 12.7.2 G (4)) if the firm accepts responsibility for the unrestricted scope of the regulated activities.

Where a notification is linked to an application for approval under section 59 of the Act (Approval for particular arrangements), see SUP 10A.13.7 G.

To contact the FCA’s Supervision Hub with appointed representatives enquiries:

(1) telephone 0300 500 0597; fax 020 7066 0017; or
(2) write to: Supervision Hub, The Financial Conduct Authority, 12 Endeavour Square, London, E20 1JN; or
(3) email firm.queries@fca.org.uk.

The purpose of SUP 12.7.6AR is to ensure that the FCA is notified when a firm diversifies its activities around regulated funeral plan activities. This may be because the firm:

1. intends to appoint an appointed representative for the first time where the scope of business for which the firm will accept responsibility will include regulated funeral plan activity;
2. is the principal to one or more appointed representatives.
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(a) and intends to expand the scope of business of one or more of those appointed representatives for which it accepts responsibility to include regulated funeral plan activity; or

(b) in relation to which it has accepted responsibility for regulated funeral plan activity only and it intends to expand the scope of business of those, or new, appointed representatives for which it accepts responsibility beyond such activity.

12.7.6C

A firm must submit to the FCA within 80 business days of each calendar year end a list of those of its appointed representatives which:

(1) undertake regulated funeral plan activity; and

(2) are the subject of a multiple principal agreement (for the purposes of SUP 12.4.5BR).

12.7.6D

(1) For the purposes of SUP 12.7.6AR(1)(b), an increase through a material threshold should be understood as referring to an increase in the number of appointed representatives undertaking regulated funeral plan activity:

(a) from fewer than 25 to 25 or more;
(b) from fewer than 50 to 50 or more;
(c) from fewer than 75 to 75 or more;
(d) from fewer than 100 to 100 or more;
(e) from fewer than 200 to 200 or more;
(f) from fewer than 500 to 500 or more.

(2) Any notification required by SUP 12.7.6AR or SUP 12.7.6CR is in addition to any notification required by any other rule in SUP 12 (including the requirement to notify the FCA of the intention to appoint individual appointed representatives in SUP 12.7.1R).

(3) A firm making a notification in accordance with SUP 12.7.6AR or SUP 12.7.6CR should consider the guidance in SUP 15.7 on the form and method of notification.

Notification of changes in information given to the

12.7.7

(1) [deleted] [Editor’s note: This provision now appears at SUP 12.7.7AR.]

(1A) [deleted] [Editor’s note: This provision now appears at SUP 12.7.7BR.]

(1B) [deleted] [Editor’s note: This provision now appears at SUP 12.7.7CR.]

(2) Except where (4) applies, where there is a change in any of the information provided to the FCA under SUP 12.7.1R, a firm must complete and submit to the FCA the form in SUP 12 Annex 4R (Appointed representative or tied agent – change details) within ten business days of that change being made or, if later, as soon as the firm becomes aware of the change. The Appointed representative or tied agent – change details form must state that the information has changed.
(4) A firm must complete and submit to the FCA the form in [SUP 12 Annex 4R (Appointed representative or tied agent – change details)] at least 10 days before a change taking effect to the category of regulated activities which the appointed representative is permitted or required to carry on and for which the firm accepts responsibility.

[Note: See [SUP 12.7.8AR regarding the method of submission for the form in [SUP 12 Annex 4R.]

[Editor’s note: The provisions at SUP 12.7.7AR, SUP 12.7.7BR and SUP 12.7.7CR are not new text; they are moved from SUP 12.7.7R(1), (1A) and (1B) respectively.]

Notification of changes relating to insurance distribution activities

12.7.7A If:

(1) (a) the scope of appointment of an appointed representative is extended to cover insurance distribution activities for the first time; and

(b) the appointed representative is not included on the Financial Services Register as carrying on insurance distribution activities in another capacity; or

(2) the scope of appointment of an appointed representative ceases to include insurance distribution activity;

the appointed representative’s principal must give written notice to the FCA of that change before the appointed representative begins to carry on insurance distribution activities under the contract (see [SUP 12.4]) or as soon as the scope of appointment of the appointed representative ceases to include insurance distribution activities.

Notification of changes relating to tied agents, MiFID optional exemption appointed representatives and structured deposit appointed representatives

12.7.7B If:

(1) (a) the scope of appointment changes such that the appointed representative acts as a tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative for the first time; and

(b) the appointed representative is not included on the Financial Services Register; or

(2) the appointed representative ceases to act as a tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative;

the appointed representative’s principal must give written notice to the FCA of that change before the appointed representative begins
to act as a tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative (see SUP 12.4) or as soon as the appointed representative ceases to act as a tied agent, MiFID optional exemption appointed representative or structured deposit appointed representative.

Notification of changes relating to MCD credit intermediation activity

12.7.7C If:

(1) (a) the scope of appointment of an appointed representative is extended to cover MCD credit intermediation activity for the first time; and
(b) the appointed representative is not included on the Financial Services Register; or

(2) the scope of appointment of an appointed representative ceases to include MCD credit intermediation activity;

the appointed representative’s principal must give written notice to the FCA of that change before the appointed representative begins to carry on MCD credit intermediation activity under the contract (see SUP 12.4), or as soon as the scope of appointment of the appointed representative ceases to include MCD credit intermediation activity.

[Note: article 31(4) of the MCD]

Notification of changes in conditions of appointment

12.7.8 (1) As soon as a firm has reasonable grounds to believe that any of the conditions in SUP 12.4.2 R, SUP 12.4.6 R, SUP 12.4.8A R, SUP 12.4.10A R or SUP 12.4.10B R (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its appointed representatives, it must complete and submit to the FCA the form in SUP 12 Annex 4 R (Appointed representative notification form), in accordance with the instructions on the form.

(2) In its notification under SUP 12.7.8 R (1), the firm must state either:
(a) the steps it proposes to take to rectify the matter; or
(b) the date of termination of its contract with the appointed representative (see SUP 12.8).

(3) [deleted]

Method of submission of the form in SUP 12 Annex 4R

12.7.8A (1) Subject to (2A), a firm other than a credit union must submit the form as set out in SUP 12 Annex 4 R online at http://www.fca.org.uk using the FCA’s online notification and application system.

(2) A credit union must submit the form in SUP 12 Annex 4 R in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).
(2A) If the notification:

(a) relates to an appointed representative whose scope of appointment covers only credit-related regulated activity; or

(b) is of a change to the scope of appointment of an appointed representative to add or remove credit-related regulated activity;

the firm must submit the form in SUP 12 Annex 4 in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

(3) Where a firm is obliged to submit an application online under (1), if the FCA’s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit the form in SUP 12 Annex 4 R in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification).

[Note: See SUP 12.7.10 G to SUP 12.7.11 G regarding notification in the event of online failure.]

Notifications relating to FCA registered tied agents

12.7.9 R

If a MiFID investment firm appoints an FCA registered tied agent this section applies to that firm as though the FCA registered tied agent were an appointed representative.

Notification of intention to act as a regulatory host

12.7.9A R

(1) A firm must notify the FCA if it intends to begin acting as a regulatory host.

(2) The notification in (1) must be received by the FCA at least 60 days before the firm begins offering services as a regulatory host.

12.7.9B G

(1) Any notification required by SUP 12.7.9AR is in addition to any notification required by any other rule in SUP 12 (including the requirement to notify the FCA of an intention to appoint individual appointed representatives in SUP 12.7.1R).

(2) A firm making a notification in accordance with SUP 12.7.9AR should consider the rules and guidance in SUP 15.7 on the form and method of notification.

(3) When providing the notification required by SUP 12.7.9AR, a firm may include information about the service that it intends to offer.

Other notifications

12.7.9C G

(1) A firm should also be aware that certain matters relating to firms’ appointed representatives may require notification to be made to the FCA under the notification rules in SUP 15 and Principle 11.

(2) In particular, SUP 15.3.8G(2) sets out the FCA’s expectation that a firm will notify the FCA in accordance with Principle 11 in the event of a significant failure of the firm’s systems and controls for overseeing its appointed representatives.
Complaints and revenue data reporting

12.7.9D

(1) This rule applies to a firm that has appointed one or more appointed representatives.

(2) A firm must, once a year, submit the form in SUP 12 Annex 6R (Ongoing reporting by principal firms on their appointed representatives) to the FCA including information on:

(a) numbers of complaints relating to each of the firm’s appointed representatives; and

(b) revenue and remuneration attributed to each of the firm’s appointed representatives.

(3) The form in (2) must be submitted to the FCA within 60 business days of the firm’s accounting reference date using the appropriate online systems accessible from the FCA’s website.

(4) A firm must submit the form in (2) in respect of each 12-month period to its accounting reference date in respect of which it has been a principal to one or more appointed representatives (whether or not it was a principal for the complete 12-month period).

(5) In relation to an appointed representative with more than one principal, a firm need not report information about the appointed representative’s revenue from non-regulated activities if it is not the ‘lead-principal’ (see SUP 12.4.5DG).

12.7.9E

In complying with SUP 12.7.9DR in relation to an appointed representative with more than one principal, a firm should only report information about the appointed representative’s revenue from that regulated activity for which the firm has accepted responsibility.

Submission in the event of failure of FCA information technology systems

12.7.10

If the FCA’s information technology systems fail and online submission is unavailable for 24 hours or more, the FCA will endeavour to publish a notice on its website confirming that online submission is unavailable and that firms, other than credit unions, should use the alternative methods of submission set out in SUP 12.7.1AR (3) and SUP 12.7.8AR (3) (as appropriate), and SUP 15.7.4 R to SUP 15.7.9 G, clearly marking applications as relating to appointed representatives.

12.7.11

Where SUP 12.7.1AR (3) or SUP 12.7.8AR (3) apply to a firm, GEN 1.3.2 R (Emergency) does not apply.