

Chapter 16

Reporting requirements



16.26 Reporting of information about Directory persons

Application

- 16.26.1 R
- This section of the *FCA Handbook* applies to an *SMCR firm* but it does not apply to a *pure benchmark SMCR firm*.
- 16.26.2 G
- (1) This section requires an *SMCR firm* to report information about its *Directory persons* to the *FCA*.

(2) An *SMCR firm* will need to report information about all of its *Directory persons*. A *firm* may also need to report information if it is a *sole trader* or if it has appointed an *appointed representative*.

(3) This section is also relevant to a *Directory person* whose name is or will be included in the *Directory*.

Purpose

- 16.26.3 G
- (1) Section 347(1) of the *Act* requires the *FCA* to maintain a record of various categories of *person*, such as *authorised persons* and *approved persons* as well as every *person* falling within such other classes as the *FCA* may determine (see section 347(1)(i)).

(2) The *FCA* has determined that individuals who are *Directory persons* should be included on the record required by section 347(1) of the *Act* (see section 347(1)(i) of the *Act*).

(3) The *FCA* is required to make the record available for inspection by members of the public in legible form at such times or places as the *FCA* may determine (see section 347(5) of the *Act*).
- 16.26.4 G
- The *FCA* expects there to be a number of benefits from the *Directory* being available for public inspection. For example, a *client* will be able to verify information about a *Directory person* who it is proposed will be involved in the provision of a service to them. Or a *firm* might cross-check information about a *Directory person* before that individual is hired by the *firm*.
- 16.26.5 G
- (1) This section contains *rules* which require an *SMCR firm* to report specified information to the *FCA* about its *Directory persons* for the purposes of that information being included in the *Directory*.

- (2) This section also contains *rules* which require reporting of additional information to the *FCA* about *Directory persons*. This includes a *Directory person's* date of birth, and, as the case may be, National Insurance number or passport number. The *FCA* needs this to ensure that information which is reported by a *firm* about a particular individual is as accurate as possible, for example, to prevent confusion between individuals with similar names. The information will also help the *FCA* in carrying out of its functions, for example, in its arrangements for supervising and enforcing compliance with relevant rules or requirements. However, this additional information will not be made available to the public through the *Directory*.

Reporting requirements: complete and accurate information

- 16.26.6** R (1) An *SMCR firm* must submit a duly completed and accurate report to the *FCA* for each *Directory person* in accordance with the provisions of this section.
- (2) The report for each *Directory person* must contain the information set out in ■ SUP 16 Annex 47AR, and be:
- (a) submitted online through the appropriate system which is accessible from the *FCA* website; and
- (b) in the appropriate format.
- 16.26.7** R (1) When submitting a report to the *FCA* in respect of a *Directory person* an *SMCR firm* must confirm that all the information being reported to the *FCA* in respect of that *Directory person* is complete and accurate.
- (2) That confirmation must be given online through the appropriate system which is accessible from the *FCA* website.
- 16.26.8** G (1) The information reported by the *firm* in respect of a *Directory person* which is to be included in the *Directory* will be uploaded onto the *Directory* shortly after the report is submitted.
- (2) It is the responsibility of a *firm* to ensure that any information that it reports about relevant *Directory persons* is accurate and complete.
- (3) The *FCA* will not verify the information about *Directory persons* which is reported by a *firm*.
- (4) If a *firm* becomes aware of any inaccuracies or errors in the information reported about a *Directory person* it must rectify that information in accordance with applicable *data protection legislation*.
- 16.26.9** G There are notes which accompany ■ SUP 16 Annex 47AR (Directory persons report) which are intended to help *firms* report the required information. The notes are in ■ SUP 16 Annex 47BG (Guidance notes for Directory persons report in SUP 16 Annex 47AR).

16.26.10	R	■ SUP 16.3.11R (Complete reporting) applies to the submission of <i>Directory persons</i> reports by an <i>SMCR firm</i> .
Reporting requirements: exceptional circumstances		
16.26.11	R	A <i>firm</i> may not report the information required in ■ SUP 16 Annex 47AR (15) where that <i>firm</i> has reason to believe that making public a <i>Directory person's</i> workplace location would put them at risk.
Frequency and timing of reports: general		
16.26.12	R	<p>(1) A <i>firm</i> must submit a report required by this section in the frequency, and so as to be received by the <i>FCA</i> no later than the due date, specified for such a report.</p> <p>(2) If a <i>firm</i> becomes aware of any inaccuracies or errors in the information reported about a <i>Directory person</i> it must rectify that information as soon as possible in accordance with applicable <i>data protection legislation</i> (see also ■ SUP 16.26.6R and ■ SUP 16.26.8G).</p>
Frequency and timing of reports: certification employees		
16.26.13	R	<p>In respect of a <i>certification employee</i>, an <i>SMCR firm</i> must submit a report within seven <i>business days</i> of:</p> <p>(1) the <i>certification employee</i> commencing performance of a <i>certification function</i>;</p> <p>(2) the <i>certification employee</i> ceasing performance of a <i>certification function</i>; or</p> <p>(3) the <i>firm</i> becoming aware of any other change to the information last reported to the <i>FCA</i> in respect of that <i>certification employee</i>.</p>
16.26.14	G	<p>An example of when an <i>SMCR firm</i> would need to submit a report to the <i>FCA</i> under ■ SUP 16.26.13R(3) is where the individual changes their name.</p> <p>Seven business days is intended to be the maximum length of time for making a notification. By reporting more quickly, firms can improve the accuracy of the information included in the Directory.</p>
Frequency and timing of reports: non-SMF director Directory person		
16.26.15	R	<p>In respect of a <i>non-SMF director Directory person</i>, an <i>SMCR firm</i> must submit a report within seven <i>business days</i> of:</p> <p>that <i>person</i> becoming a <i>non-SMF director Directory person</i> at the <i>firm</i>; or</p> <p>that <i>person</i> ceasing to be a <i>non-SMF director Directory person</i> at the <i>firm</i>; or</p> <p>the <i>firm</i> becoming aware of any other change to the information last reported to the <i>FCA</i> in respect of that individual.</p>

Frequency and timing of reports: sole trader Directory person or appointed representative Directory person

- 16.26.16** **R** In respect of an *appointed representative Directory person* or a *sole trader Directory person*, an *SMCR firm* must submit a report within seven *business days* of:
- (1) that *person* commencing performance of a function which requires a qualification under ■ TC App 1.1 (Activities and Products/Sectors to which TC applies subject to Appendices 2 and 3);
 - (2) that *person* ceasing to perform a function which requires a qualification under ■ TC App 1.1 (Activities and Products/Sectors to which TC applies subject to Appendices 2 and 3); or
 - (3) the *firm* becoming aware of any other change to the information last reported to the *FCA* in respect of that individual.

- 16.26.17** **R** If the *FCA's* information technology systems fail and online submission of the reports required under this section is not possible on the reporting day (see paragraph (3)), the time period for submission of reports is extended in accordance with paragraph (2).

If on the reporting day, the online submission of reports is not possible for more than one hour, the *firm* must submit the relevant report on the first *business day* on which the online submission of reports is next possible.

In this *rule*, the “reporting day” is the day on which the *firm* must submit a report under this section as determined in accordance with ■ SUP 16.26.13R to ■ SUP 16.26.16R.

Frequency and timing of reports: reporting to the FCA at least once every twelve months

- 16.26.18** **R**
- (1) Paragraph (2) applies where an *SMCR firm* has not submitted any reports to the *FCA* in respect of a *Directory person* in accordance with the provisions of this section within the relevant period (see ■ SUP 16.26.20R).
 - (2) An *SMCR firm* must submit a report to the *FCA* confirming that the information previously reported by the *firm* in respect of its *Directory persons* remains accurate and up-to-date.
 - (3) The confirmation to be submitted to the *FCA* under paragraph (2) must be submitted no later than the first *business day* following the end of the relevant period (see ■ SUP 16.26.20R).

- 16.26.19** **R** An *SMCR firm* may submit a confirmation of accuracy at any time.

- 16.26.20** **R**
- (1) For the purposes of ■ SUP 16.26.18R, the “relevant period” is the period which:
 - (a) starts on the day on which the *SMCR firm* last:

- (i) submitted a report to the *FCA* in respect of any of its *Directory persons*; or
 - (ii) submitted a confirmation in accordance with ■ SUP 16.26.18R;
 - (iii) submitted a confirmation in accordance with ■ SUP 16.26.19R; and
- (b) subject to (2), ends 364 days after the day specified in (a).
- (2) If the relevant period includes the 29 February of a given year, the period ends 365 days after the day specified in paragraph (1)(a).

Failure to submit a report

- 16.26.21
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- SUP 16.3.14R (Failure to submit reports) applies to the failure by an *SMCR firm* to submit a complete report about its *Directory persons* in accordance with the *rules* set out in this section by the date on which it is due.
- 16.26.22
- G
- Failure to submit a report in accordance with the *rules* in, or referred to in, this chapter or the provisions of relevant legislation may also lead to the imposition of a financial penalty and other disciplinary sanctions.
- 16.26.23
- G
- The *firm* is responsible for ensuring delivery of the required report by the relevant due date. If a report is received by the *FCA* after the due date and the *firm* believes its delivery arrangements were adequate, it may be required to provide proof of those arrangements.