3.3 Appointment of auditors

Purpose

3.3.1 This section requires a firm to appoint an auditor and supply the appropriate regulator with information about its auditor. The appropriate regulator requires such information to ensure that the firm has an auditor.

Appointment by firms

3.3.2 A firm to which this section applies (see SUP 3.1) must:

1. appoint an auditor;
2. notify the appropriate regulator, without delay, on the form in SUP 15 Ann 3 (Notification to amend firm details form), in accordance with the instructions on the form, when it is aware that a vacancy in the office of auditor will arise or has arisen, giving the reason for the vacancy;
3. appoint an auditor to fill any vacancy in the office of auditor which has arisen;
4. ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable after that; and
5. notify the appropriate regulator of the appointment of an auditor, on the form in SUP 15 Ann 3 (Notification to amend firm details form), in accordance with the instructions on the form, advising the appropriate regulator of the name and business address of the auditor appointed and the date from which the appointment has effect.

3.3.3A ■ SUP 3.3.2 R applies to every firm to which this section applies. That includes a firm which is under an obligation to appoint an auditor under an enactment other than the Act, such as the Companies Act 1985 for the Companies Act 2006, as appropriate. Such a firm is expected to wish to have a single auditor who is appointed to fulfil both obligations. ■ SUP 3.3.2 R is made under section 137A of the Act (The FCA’s general rules), in relation to such firms, and under section 340(1) (Appointment) in relation to other firms.

3.3.4 [deleted]
3.3.5 [deleted]

3.3.6 [deleted]

Appointment by the appropriate regulator

3.3.7 (1) Paragraph (2) applies to a firm which is not under an obligation to appoint an auditor imposed by an enactment other than the Act.

(2) If a firm fails to appoint an auditor within 28 days of a vacancy arising, the appropriate regulator may appoint an auditor for it on the following terms:

(a) the auditor to be remunerated by the firm on the basis agreed between the auditor and firm or, in the absence of agreement, on a reasonable basis; and

(b) the auditor to hold office until he resigns or the firm appoints another auditor.

3.3.9 SUP 3.3.7 R allows but does not require the appropriate regulator to appoint an auditor if the firm has failed to do so within the 28 day period. When it considers whether to use this power, the appropriate regulator will take into account the likely delay until the firm can make an appointment and the urgency of any pending duties of the appointed auditor.

3.3.10 A firm must comply with and is bound by the terms on which an auditor has been appointed by the appropriate regulator, whether under SUP 3.3.7 R, the Building Societies Act 1986 or the Friendly Societies Act 1992.