

Improvements to the Appointed Representatives Regime

The Financial Conduct Authority (FCA) has published a **Policy Statement** (PS) to improve oversight over Appointed Representatives (ARs). The rules will take effect from 8th December 2022.

Background

In the FCA's PS, it indicated that it had identified over 60 principal firms across a wide range of sectors for further analysis, with action being taken where it detects harm. The key outcomes the FCA seeks to achieve are:

- Principals to understand their responsibilities in relation to ARs, have stronger and better oversight of, and take more effective responsibility for, their ARs.
- The FCA can better challenge firms with, and those looking to appoint, ARs.
- Principals address problems with their ARs that are, or have the potential to, cause harm to consumers or markets.
- Consumers can access better quality information on principals and ARs and make good decisions when choosing products or services.

What is being changed

The key changes to the AR regime under the new rules are:

- Notification of future ARs:
 - Pre-notification period of 30 days to include primary reason for the appointment, nature of the regulated activities the AR is permitted to carry on, reason for termination of the relationship if the AR was previously with another principle, estimated revenue from regulated and non-regulated activity in the first year (in bands), and the nature of the financial arrangement between principal and the AR.

- Information on existing ARs:
 - s165 request for data on existing ARs to come later in 2022 with 60 days to respond - information will include the same information as for a new AR, as above.
 - Firms with more than 10 ARs can submit the information by completing an Excel spreadsheet.
- Principals to provide more information on ARs, this includes:
 - Details on financial non-regulated activities. This will allow the FCA to identify and monitor risks more effectively and will also ensure that principals have knowledge of the full scope of their ARs' non-regulated activities. The details on non-financial, non-regulated activities are not necessary, just a total revenue figure.
 - Revenue bands for reporting anticipated AR revenue for non-reg and reg activities during year 1 of appointment.
 - Details of the financial arrangement between principal and AR, will have drop down boxes and an open text box.
 - Principals to report significant changes to the 'new information' on ARs within 10 business days of the change being made.
 - Changes to the types of regulated activities the principal allows the AR to carry out to be notified 10 calendar days **before** the change takes effect.
- Principals to provide complaints and revenue info for ARs annually:
 - Complaints and revenue data to be provided within 60 business days after principal firm's accounting reference date.
 - Revenue bands for annual reporting of AR non-financial non-regulated activities, non-regulated financial activity, and regulated activity - within 60 business days of the principal's accounting reference date.
- Definition of providing Regulatory hosting:
 - refining the definition of 'regulatory hosting' as follows:
regulatory host a firm:
that offers or provides a service:
(a) by which unauthorised persons, whether or not in the same group as the firm, may become appointed representatives of the firm;
(b) for remuneration with a view to profit; and
(2) to which either (a) or (b) applies:

- (a) the firm does not carry on any regulated activities other than through its appointed representatives; or
- (b) the regulated activities carried on by one or more of the appointed representatives of the firm are not connected to any regulated activity undertaken by the firm other than through its appointed representatives.
- There are no additional rules or restrictions on firms already providing this service.
- Enhanced oversight of ARs:
 - Annual review requirement can be met by principals integrating these into existing internal reporting processes – Principals have 1 year from 8th Dec 2022 to complete first review.
 - Significant issues identified at specific ARs to be escalated to governing body - self-assessment is a single document focussing on how the principal itself is meeting its responsibilities in relation all of its ARs and signed off by the governing body every 12 months – Principals have 1 year from 8th Dec 2022 to complete first review.
 - Principals will be required to verify the details of all of its ARs as appears on the FS register are correct - first verification will be 12 months after the rules come into force, being 8th Dec 2023.
- Implementation period:
 - There is a 4-month implementation period, so that the rules will be effective from 8 December 2022.
 - There is an additional transitional period for rules that require Principals to submit information on an ongoing basis and to review their ARs and self-assess annually.
- Consumer Duty
 - The FCA note that Consumer Duty and the AR regime changes go hand in hand to increase protection for consumers dealing with ARs.

Newgate advice

Principal firms should review and understand the new rule on ARs taking into account implementation measures by 8th December 2022. Principal firms should enhance its compliance policies, procedures, reporting processes, and oversight and monitoring framework of ARs. Principal firms should work closely with their ARs to clarify what is expected of them under the new rules.

If you require further assistance on how we can assist with your AR oversight arrangements, please do not hesitate to contact a member of our team.



Matthew Hazell

Managing Director

E matthewhazell@newgatecompliance.com

T +44 (0) 20 3696 8753



Traci Pham

Managing Director

E tracipham@newgatecompliance.com

T +44 (0) 20 3696 8759



Haydon Thomas

Director

E haydonthomas@newgatecompliance.com

T +44 (0) 20 3696 8756



Nimish Shah

Senior Consultant

E nimishshah@newgatecompliance.com

T +44 (0) 7775 658 367

+44 (0)20 3696 8750

info@newgatecompliance.com

newgatecompliance.com

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