

Chapter 15

Notifications to the FCA

15.1 Application

Who?

- 15.1.1 **G** This chapter applies to every *firm* except that:
- (1) only ■ SUP 15.10 applies to an *ICVC* or a *UCITS qualifier*; and
 - (2) ■ SUP 15.3.22 D to ■ SUP 15.3.25 D apply only to the *Society*.
- 15.1.2 **R** The application of this chapter to an *incoming EEA firm* or an *incoming Treaty firm* is set out in ■ SUP 15 Annex 1.
- 15.1.3 **G** In some cases, the application of provisions set out in ■ SUP 15 Annex 1 depends on whether responsibility is reserved to a *Home State regulator*.
- 15.1.3A **G** The guidance in ■ SUP 15.13 applies to all *CBTL firms* whether or not they are also *firms*.
- 15.1.3B **D** The directions and guidance in ■ SUP 15.14 apply to *payment service providers* as set out in that section.

What?

- 15.1.4 **R** This chapter:
- (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*; and
 - (2) takes into account any activity of other members of a *group* of which the *firm* is a member.
- 15.1.4AR **D** ■ SUP 15.8 and ■ SUP 15.14 apply with respect to the carrying on of *payment services* and other activities to which the *Payment Services Regulations* apply.

Where?

15.1.5 **G** *Firms* are reminded that, unless expressly stated otherwise, where a *rule* or *guidance* includes a reference to a *firm* this includes all *UK* and overseas branches and representative offices of that *firm*, whether or not those branches or offices carry on any *regulated activities*.

15.1.6 **R** This chapter does not apply to an *incoming ECA provider* acting as such.

SMCR firms

15.1.7 **R** The following apply only to *SMCR firms*:

- (1) ■ SUP 15.2.5G (Purpose); and
- (2) ■ SUP 15.11 (Notification of COCON breaches and disciplinary action).

15.2 Purpose

- 15.2.1** **G** A *firm* is required to provide the FCA with a wide range of information to enable the FCA to meet its responsibilities for monitoring the *firm's* compliance with requirements imposed by or under the Act. Some of this information is provided through regular reports, including those set out in ■ SUP 16 (Reporting requirements) and ■ SUP 17 (Transaction reporting). In addition, other chapters in the *Handbook* set out specific notification and reporting requirements. *Principle 11* includes a requirement for a *firm* to disclose to the FCA appropriately anything relating to the *firm* of which the FCA would reasonably expect notice.
- 15.2.1A** **G** *Payment service providers* are required to provide the FCA with such information as the FCA may direct in respect of their provision of *payment services* or compliance with the requirements imposed by or under Parts 2 to 7 or regulation 105 of the *Payment Services Regulations*. The purpose of ■ SUP 15.8 is to request information from *full credit institutions* where they provide (or propose to provide) *account information services* or *payment initiation services*. In addition to this general requirement, *payment service providers* are required under the *Payment Services Regulations* to notify the FCA on the occurrence of certain specified events. The purpose of ■ SUP 15.14 is to provide directions and guidance to *payment service providers* on the form, content and timing of notifications required under the *Payment Services Regulations*.
- 15.2.2** **G** This chapter sets out:
- (1) *guidance* on the type of event or change in condition which a *firm* should consider notifying in accordance with *Principle 11*; the purpose of this *guidance* is to set out examples and not to give comprehensive advice to *firms* on what they should notify in order to be in compliance with *Principle 11*;
 - (2) *rules* on events and changes in condition that a *firm* must notify; these are the types of event that the FCA must be informed about, usually as soon as possible, if it is to be able to carry out its monitoring function effectively and react in good time to developments that may require a regulatory response;
 - (3) *rules* on the core information that a *firm* must provide to the FCA for example its name and address and the names of its other regulators, so that the FCA is able to maintain a relationship with the *firm* and with those regulators;

- (4) *rules* requiring a *firm* to ensure that information provided to the *FCA* is accurate and complete; section 398 of the *Act* makes it an offence knowingly or recklessly to provide the *FCA* with information which is false or misleading in a material particular, in purported compliance with any requirement imposed by or under the *Act*; the purpose of the *rules* in ■ SUP 15.6 is to ensure that *firms* take due care to ensure the accuracy of information and to require them to ensure that information is not only accurate but also complete;
- (5) material (in ■ SUP 15.10 (Notification of suspicious transactions or orders (market abuse)) which makes reference to the provisions of the *Market Abuse Regulation* that detail requirements on the reporting of transactions or orders about which there is reasonable suspicion of *market abuse*; and
- (6) directions and guidance for a *payment service provider* on the form, content and timing of notifications required to be submitted to the *FCA* in accordance with or in relation to the *Payment Services Regulations*.

15.2.3 **G** *Rules and guidance* have also been included to set out how *firms* should make a notification and to determine when it may be appropriate to discuss matters with their usual supervisory contact at the *FCA* by telephone (■ SUP 15.7).

15.2.4 **G** [deleted]

15.2.5 **R** ■ SUP 15.11 (Notification of COCON breaches and disciplinary action) provides *rules and guidance* on notifications to the *FCA* by an *SMCR firm* where the *SMCR firm* takes disciplinary action in relation to any *conduct rules staff* and the reason for taking that action is a reason specified in *rules* made by the *FCA*. This is a requirement imposed under section 64C of the *Act*.

15.2.6 **R** ■ SUP 15.12 (Ongoing alerts for retail adviser complaints) sets out *rules and guidance* on a *firm's* obligation to notify the *FCA* of complaints against an *employee* acting as a *retail investment adviser*.

15.3 General notification requirements

Matters having a serious regulatory impact

- 15.3.1** **R** A *firm* must notify the *FCA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:
- (1) the *firm* failing to satisfy one or more of the *threshold conditions*; or
 - (2) any matter which could have a significant adverse impact on the *firm's* reputation; or
 - (3) any matter which could affect the *firm's* ability to continue to provide adequate services to its *customers* and which could result in serious detriment to a *customer* of the *firm*; or
 - (4) any matter in respect of the *firm* which could result in serious financial consequences to the *UK financial system* or to other *firms*.
- 15.3.2** **G** The circumstances which may give rise to any of the events in **■ SUP 15.3.1 R** are wide-ranging and the probability of any matter resulting in such an outcome, and the severity of the outcome, may be difficult to determine. However, the *FCA* expects *firms* to consider properly all potential consequences of events.
- 15.3.3** **G** In determining whether the *FCA* should be notified of an event that may occur in the foreseeable future, a *firm* should consider both the probability of the event happening and the severity of the outcome should it happen.
- 15.3.4** **G** *Guidance* on satisfaction of the *threshold conditions* is given in *COND*.
- 15.3.5** **G** A *firm* making a notification in accordance with **■ SUP 15.3.1 R** should consider the *guidance* in **■ SUP 15.7.2 G** and notify the *FCA* by telephone if appropriate.
- 15.3.7** **G** **Communication with the appropriate regulator in accordance with Principle 11**
- Principle 11* requires a *firm* to deal with its regulators in an open and cooperative way and to disclose to the *FCA* appropriately anything relating to the *firm* of which the *FCA* would reasonably expect notice. *Principle 11*

applies to *unregulated activities* as well as *regulated activities* and takes into account the activities of other members of a *group*.

15.3.7A **G** Although *PRIN* does not apply to a *firm* in relation to its carrying on of *auction regulation bidding*, the *FCA* expects to be given notice of events that are material to the *FCA*'s supervision of that business and so *firms* carrying on that business should have regard to the *guidance* in ■ SUP 15.3.8 G to ■ SUP 15.3.10 G.

15.3.8 **G** Compliance with *Principle 11* includes, but is not limited to, giving the *FCA* notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:
 - (a) setting up a new *undertaking* within a *firm's* group, or a new branch (whether in the *United Kingdom* or overseas); or
 - (b) commencing the provision of cross border services into a new territory; or
 - (c) commencing the provision of a new type of product or service (whether in the *United Kingdom* or overseas); or
 - (d) ceasing to undertake a *regulated activity* or *ancillary activity*, or significantly reducing the scope of such activities; or
 - (e) entering into, or significantly changing, a *material outsourcing arrangement* (a *bank*, a *building society* and a *dormant account fund operator* should also see ■ SYSC 8, and an *insurer* should also see ■ SYSC 13.9 for further details); or
 - (f) a substantial change or a series of changes in the *governing body* of an *overseas firm* (other than an *incoming firm*); or
 - (g) any change to the *firm's* prudential category or sub-category, as used in the Interim Prudential sourcebooks and *SUP* and on which *guidance* is given in ■ SUP App 1; or
 - (h) any proposed change which limits the liability of any of the *members* or *partners* of a *firm* such as a general *partner* becoming a limited *partner* or re-registration as a limited liability *company* of a *company* incorporated with unlimited liability; or
 - (i) in relation to a *dormant account fund operator*, notify the *FCA* when the operator intends to rely on a third party for the performance of operational functions which are critical or important for the performance of relevant services and activities in connection with *operating a dormant account fund* on a continuous and satisfactory basis;
- (2) any significant failure in the *firm's* systems or controls, including those reported to the *firm* by the *firm's* auditor;
- (3) any action which a *firm* proposes to take which would result in a material change in its capital adequacy or solvency, including, but not limited to:
 - (a) any action which would result in a material change in the *firm's* financial resources or financial resources requirement; or

- (b) a material change resulting from the payment of a special or unusual dividend or the repayment of *share* capital or a subordinated loan; or
- (c) for *firms* which are subject to the *rules* on consolidated financial supervision, any proposal under which another *group company* may be considering such an action; or
- (d) significant trading or non-trading losses (whether recognised or unrecognised).

15.3.9 **G** The period of notice given to the *FCA* will depend on the event, although the *FCA* expects a *firm* to discuss relevant matters with it at an early stage, before making any internal or external commitments.

15.3.10 **G** A notification under *Principle 11* may be given orally or in writing (as set out in **■ SUP 15.7.1 R** and **■ SUP 15.7.2 G**), although the *FCA* may request written confirmation of a matter. However, it is the responsibility of a *firm* to ensure that matters are properly and clearly communicated to the *FCA*. A *firm* should provide a written notification if a matter either is complex or may be such as to make it necessary for the *FCA* to take action. A *firm* should also have regard to *Principle 11* and the *guidance* in **■ SUP 15.7.2 G** in respect of providing important information promptly.

Breaches of rules and other requirements in or under the Act or the CCA

15.3.11 **R**

(1) A *firm* must notify the *FCA* of:

- (a) a significant breach of a *rule* (which includes a *Principle*, a *Statement of Principle* or a *COCON rule*); or
- (aa) a significant breach of any requirement imposed by the *CCA* or by regulations or an order made under the *CCA* (except if the breach is an offence, in which case (c) applies), but any notification under (aa) is required to be made only to the *FCA*; or
- (b) a breach of any requirement imposed by the *Act* or by regulations or an order made under the *Act* by the Treasury (except if the breach is an offence, in which case (c) applies); or
- (ba) a breach of any requirement imposed by or under either the *MiFI Regulations* or the *DRS Regulations*; or
- (c) the bringing of a prosecution for, or a conviction of, any offence under the *Act* or the *CCA*; or
- (d) a breach of a directly applicable provision imposed by *MiFIR* or any *EU regulation* adopted under *MiFID* or *MiFIR*; or
- (dA) a breach of a directly applicable provision in *the EU CRR* or any directly applicable regulations made under *CRD* or the *EU CRR*; or
- (e) a breach of any requirement in regulation 4C(3) (or any successor provision) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007; or
- (ea) a breach of a directly applicable provision in the *auction regulation*; or
- (f) it exceeding (or becoming aware that it will exceed) the limit in **■ BIPRU 10.5.6 R**; or
- (g) a breach of the *AIFMD UK regulation*; or

- (h) a breach of any directly applicable EU regulation made under *AIFMD*; or
 - (ha) a breach of the *benchmarks regulation* (apart from Annex II to that regulation) or of any directly applicable regulations or requirements made or imposed under the *benchmarks regulation*; or
 - (i) a breach of a directly applicable EU regulation made under the *IDD*;
- by (or as regards (c) against) the *firm* or any of its *directors, officers, employees, approved persons, or appointed representatives*, where applicable, *tiered agents*.
- (2) A *firm* must make the notification in (1) immediately it becomes aware, or has information which reasonably suggests, that any of the matters in (1) has occurred, may have occurred or may occur in the foreseeable future.

15.3.11A G ■ SUP 15.3.11 R (1)(e) relates to the standard requirement in the *permission* of those *firms* which fall outside *MiFID* because of the Treasury's implementation of Article 3 of *MiFID*. *Guidance* on how the Treasury has exercised the Article 3 exemption for the *United Kingdom* is given in Q48 and the following questions and answers in ■ PERG 13.5 (Exemptions from MiFID).

15.3.12 G In ■ SUP 15.3.11 R(1)(a) or (1)(aa), significance should be determined having regard to potential financial losses to *customers* or to the *firm*, frequency of the breach, implications for the *firm's* systems and controls and if there were delays in identifying or rectifying the breach.

15.3.13 G In assessing whether an event that may occur in the foreseeable future should be notified to the *FCA* a *firm* should consider the *guidance* in ■ SUP 15.3.3 G.

15.3.14 G A notification under ■ SUP 15.3.11 R should include:

- (1) information about any circumstances relevant to the breach or offence;
- (2) identification of the *rule* or requirement or offence; and
- (3) information about any steps which a *firm* or other *person* has taken or intends to take to rectify or remedy the breach or prevent any future potential occurrence.

15.3.14A G (1) Some matters that need to be notified under ■ SUP 15.3.11R may also have to be notified under ■ SUP 10A.14 (Changes to an FCA-approved person's details).

(2) However, there is no need to make the same notification twice.

- (3) Any notification required under both ■ SUP 10C.14 and ■ SUP 15.3.11R should be made in accordance with ■ SUP 10C.14, which requires notification using Forms C or D.
- (4) ■ SUP 10C.14 only applies to *SMCR firms*. ■ SUP 10A.14 applies similar, but less extensive, obligations to firms that are not *SMCR firms*. Paragraphs (2) and (3) apply to those notifications as well. Such notifications should however be made under ■ SUP 10A.14.

15.3.14B G

- (1) Some matters that need to be notified under ■ SUP 15.3.11R may also have to be notified under ■ SUP 15.11 (Notification of COCON breaches and disciplinary action).
- (2) If the same thing has to be notified under ■ SUP 15.11 and ■ SUP 15.3.11R, a *firm* should make separate notifications under both. This is because:
 - (a) notification under ■ SUP 15.11 is annual and notification under ■ SUP 15.3.11R is immediate; and
 - (b) the details of what has to be notified under those requirements are different.

Civil, criminal or disciplinary proceedings against a firm

15.3.15 R

A *firm* must notify the FCA immediately if:

- (1) civil proceedings are brought against the *firm* and the amount of the claim is significant in relation to the *firm's* financial resources or its reputation; or
- (2) any action is brought against the *firm* under section 71 of the Act (Actions for damages) or section 138D (Actions for damages); or
- (3) disciplinary measures or sanctions have been imposed on the *firm* by any statutory or regulatory authority, competition authority, professional organisation or trade body (other than the FCA or the *firm* becomes aware that one of those bodies has started an investigation into its affairs; or
- (4) the *firm* is prosecuted for, or convicted of, any offence involving fraud or dishonesty, or any penalties are imposed on it for tax evasion; or
- (5) it is an *OPS firm*, which is a trustee, and is removed as trustee by a court order.

15.3.16 G

A notification under ■ SUP 15.3.15 R should include details of the matter and an estimate of the likely financial consequences, if any.

Fraud, errors and other irregularities

15.3.17 R

A *firm* must notify the FCA immediately if one of the following events arises and the event is significant:

- (1) it becomes aware that an *employee* may have committed a fraud against one of its *customers*; or
- (2) it becomes aware that a *person*, whether or not employed by it, may have committed a fraud against it; or

- (3) it considers that any *person*, whether or not employed by it, is acting with intent to commit a fraud against it; or
- (4) it identifies irregularities in its accounting or other records, whether or not there is evidence of fraud; or
- (5) it suspects that one of its *employees* may be guilty of serious misconduct concerning his honesty or integrity and which is connected with the *firm's regulated activities or ancillary activities*.

15.3.18 **G** In determining whether a matter is significant, a *firm* should have regard to:

- (1) the size of any monetary loss or potential monetary loss to itself or its *customers* (either in terms of a single incident or group of similar or related incidents);
- (2) the risk of reputational loss to the *firm*; and
- (3) whether the incident or a pattern of incidents reflects weaknesses in the *firm's internal controls*.

15.3.19 **G** The notifications under **SUP 15.3.17 R** are required as the *FCA* needs to be aware of the types of fraudulent and irregular activity which are being attempted or undertaken, and to act, if necessary, to prevent effects on *consumers* or other *firms*. A notification under **SUP 15.7.3 G** should provide all relevant and significant details of the incident or suspected incident of which the *firm* is aware.

15.3.20 **G** In addition, the *firm* may have suffered significant financial losses as a result of the incident, or may suffer reputational loss, and the *FCA* will wish to consider this and whether the incident suggests weaknesses in the *firm's internal controls*.

Insolvency, bankruptcy and winding up

15.3.21 **R** A *firm* must notify the *FCA* immediately of any of the following events:

- (1) the calling of a meeting to consider a resolution for winding up the *firm*; or
- (2) an application to dissolve the *firm* or to strike it off the Register of Companies; or
- (3) the presentation of a petition for the winding up of the *firm*; or
- (4) the making of, or any proposals for the making of, a composition or arrangement with any one or more of its creditors; or
- (5) an application for the appointment of an administrator or trustee in bankruptcy to the *firm*; or
- (6) the appointment of a receiver to the *firm* (whether an administrative receiver or a receiver appointed over particular property); or

- (7) an application for an interim order against the *firm* under section 252 of the Insolvency Act 1986 (or, in Northern Ireland, section 227 of the Insolvency (Northern Ireland) Order 1989); or
- (8) if the *firm* is a *sole trader*:
 - (a) an application for a sequestration order on the *firm*; or
 - (b) the presentation of a petition for bankruptcy; or
- (9) anything equivalent to (1) to (8) above occurring in respect of the *firm* in a jurisdiction outside the *United Kingdom*.

Lloyd's of London

15.3.22

D

■ SUP 15.3.23 D to ■ SUP 15.3.25 D are given in relation to the exercise of the powers of the *Society* and of the *Council* generally, with a view to achieving the objective of enabling the *FCA* to:

- (1) comply with its general duty under section 314 of the *Act* (Regulators' general duty);
- (2) determine whether *underwriting agents*, or *approved persons* acting for them or on their behalf, are complying with the requirements imposed on them by or under the *Act*;
- (3) enforce the provisions of the *Act*, or requirements made under the *Act*, by enabling the *FCA* to consider, where appropriate, whether it should use its powers, for example, to:
 - (a) vary or cancel the *permission* of an *underwriting agent*, under section 55J of the *Act* (Variation or cancellation on initiative of regulator);
 - (b) withdraw approval from an *approved person* acting for or on behalf of an *underwriting agent*, under section 63 of the *Act* (Withdrawal of approval) (see ■ EG 9);
 - (c) prohibit an individual acting for or on behalf of an *underwriting agent* from involvement in *regulated activities*, under section 56 of the *Act* (Prohibition orders) (see ■ EG 9);
 - (d) require an *underwriting agent* to make restitution, under section 384 of the *Act* (Power of *FCA* or *PRA* to require restitution) (see ■ EG 11);
 - (e) discipline an *underwriting agent*, or an *approved person* acting for it or on its behalf, for a breach of a requirement made under the *Act*, including the *Principles*, *Statements of Principle* and *rules* (see ■ DEPP 6 and ■ EG 7);
 - (f) apply to court for an *injunction*, restitution order or *insolvency order* (see ■ EG 10, ■ EG 11 and ■ EG 13); and
 - (g) prosecute any criminal offence that the *FCA* has power to prosecute under the *Act* (see ■ EG 12).

15.3.23

D

The *Society* must immediately inform the *FCA* in writing if it becomes aware that any matter likely to be of material concern to the *FCA* may have arisen in relation to:

- (1) the *regulated activities* for which the *Society* has *permission*; or
- (2) *underwriting agents*; or
- (3) *approved persons* or individuals acting for or on behalf of *underwriting agents*.

15.3.24 **D** The *Society* must inform the *FCA* if it commences investigations or disciplinary proceedings relating to apparent breaches:

- (1) of the *Act* or requirements made under the *Act*, including the *threshold conditions* or the *Principles* or other *rules*, by an *underwriting agent*; or
- (2) of the *Statements of Principle* by an individual or other *person* who carries out *controlled functions* for or on behalf of an *underwriting agent*.

15.3.25 **D** The *Society* must inform the *FCA* if it commences investigations or disciplinary proceedings which do not fall within the scope of ■ SUP 15.3.24 D but which:

- (1) involve an *underwriting agent*, or an *approved person* who carries out *controlled functions* for it or on its behalf; or
- (2) may indicate that an individual acting for or on behalf of an *underwriting agent* may not be a fit and proper *person* to perform functions in relation to *regulated activities*.

UK AIFMs

15.3.26 **R** A *full-scope UK AIFM* must notify the *FCA* before implementing any material changes to the conditions under which it was granted *permission* to *manage an AIF*, in particular to the information it provided in its application for that *permission*.

[Note: article 10(1) of *AIFMD*]

15.3.27 **G** Changes that the *FCA* would expect to be notified of under ■ SUP 15.3.26 R include:

- (1) an *AIFM* being appointed to manage another *AIF*;
- (2) the appointment of a different *depository* for an *AIF* the *AIFM* manages; and
- (3) the appointment of any new *senior personnel* if the *AIFM* is not required to apply for the *FCA*'s approval for that appointment under section 59 of the *Act*.

15.3.27A **R** A *full-scope UK AIFM* must notify the *FCA* of material changes under ■ SUP 15.3.26 R in the following manner:

- (1) for the management of a new *AIF* or a new investment compartment of an *AIF*, by using the form in ■ SUP 15 Annex 6A R;
- (2) for changes of *senior personnel* whose appointment is not required to be approved by the *FCA* under section 59 of the *Act*, by using the form in ■ SUP 15 Annex 6B R; and
- (3) for all other material changes, by using the form in ■ SUP 15 Annex 6C R.

15.3.28 **R**

Where a *small authorised UK AIFM* no longer meets the conditions in regulation 9 (meaning of "small AIFM") of the *AIFMD UK regulation* it must:

- (1) immediately notify the *FCA* using the form in ■ SUP 15 Annex 6D R; and
- (2) within 30 calendar days, apply to the *FCA* for a variation of its *permission* to become a *full-scope UK AIFM*.

[Note: article 3(3) second and third paragraphs of *AIFMD*]

15.3.29 **R**

- (1) A *small authorised UK AIFM* must notify the *FCA* before it starts to manage a new *AIF* or a new investment compartment of an *AIF* using the form in ■ SUP 15 Annex 6A R.
- (2) (1) does not apply where:
 - (a) the management of the new *AIF* or investment compartment would result in the *AIFM* exceeding the relevant threshold of assets under management so that it will no longer meet the conditions in regulation 9 (meaning of "small AIFM") of the *AIFMD UK regulation* (see ■ SUP 15.3.28 R); or
 - (b) the *AIF* is a *EuSEF* or *EuVECA* (see ■ SUP 15.3.31 G).

15.3.30 **D**

- (1) A *small registered UK AIFM* must notify the *FCA* of changes in the following manner:
 - (a) for the management of a new *AIF* or a new investment compartment of an *AIF*, by using the form in ■ SUP 15 Annex 6A R;
 - (b) (a) does not apply where:
 - (i) the management of the new *AIF* or investment compartment would result in the *AIFM* exceeding the relevant threshold of assets under management so that it will no longer meet the conditions in regulation 9 (meaning of "small AIFM") of the *AIFMD UK regulation* (see (2)); or
 - (ii) the *AIF* is a *EuSEF* or *EuVECA* (see ■ SUP 15.3.31 G);
- (2) if it no longer meets the conditions in regulation 9 (meaning of "small AIFM") of the *AIFMD UK regulation*, by using the form in ■ SUP 15 Annex 6D R; and
- (3) if it ceases to meet the conditions for registration in regulation 15(1) (small registered AIFMs ceasing to meet the requirements for registration), by using the form in ■ SUP 15 Annex 6E D.

- 15.3.31 **G** A *EuSEF manager* or a *EuVECA manager* should notify the FCA of the following changes in the following manner:
- (1) for changes to *senior personnel*, by using the form in **■ SUP 15 Annex 6B R**; and
 - (2) for changes to the jurisdiction in which its *EuSEF* or *EuVECA* is marketed or to *market* a new *EuSEF* or *EuVECA*, by using the form in **■ SUP 15 Annex 6F G**

Competition law infringements

- 15.3.32 **R**
- (1) A *firm* must notify the FCA if it has or may have committed a significant infringement of any applicable competition law.
 - (2) A *firm* must make the notification as soon as it becomes aware, or has information which reasonably suggests, that a significant infringement has, or may have, occurred.
 - (3) (a) A *firm* must make the notification in writing unless (3)(b) applies.
(b) A *firm* may make the notification orally where it has made or will make an oral application for leniency or immunity covering the same subject matter to any competition authority.

- 15.3.33 **G** A notification under **■ SUP 15.3.32R** should include:
- (1) information about any circumstances relevant to the infringement or possible infringement;
 - (2) identification of the relevant law; and
 - (3) information about any steps which the *firm* or other *person* has taken or intends to take to rectify or remedy the infringement or prevent any future potential occurrence.

- 15.3.34 **G** In determining whether a matter is significant, a *firm* should have regard to the actual or potential effect on competition, any customer detriment, and the duration of any infringement and implications for the *firm's* systems and controls.

- 15.3.35 **G**
- (1) Where a *firm* notifies the FCA under **■ SUP 15.3.32R**, the *firm* should not infer or assume that any lack of (or delay in) a response, objection or enforcement activity by the FCA or any other competition authority means that the agreement or conduct:
 - (a) does not infringe competition law; or
 - (b) is, or will be, immune from enforcement.
 - (2) Notification under **■ SUP 15.3.32R** is not sufficient to constitute an application for leniency or immunity from penalty in any subsequent investigation under Chapter 1 of the Competition Act 1998 or article 101 of the *Treaty*.

15.4 Notified persons

- 15.4.1** **R** (1) An *overseas firm*, which is not an *incoming firm*, must notify the FCA within 30 *business days* of any *person* taking up or ceasing to hold the following positions:
- (a) the *firm's* worldwide chief executive (that is, the *person* who, alone or jointly with one or more others, is responsible under the immediate authority of the *directors* for the whole of its business) if the *person* is based outside the *United Kingdom*;
 - (b) the *person* within the *overseas firm* with a purely strategic responsibility for *UK* operations (see **SUP 10.7.4 G**);
 - (c) for a *bank*: the two or more *persons* who effectively direct its business in accordance with **SYSC 4.2.2 R** ;
 - (d) for an *insurer*: the *authorised UK representative*.
- (2) The notification in (1) must be submitted in the form set out in Form F (**SUP 15 Ann 2**). However, if the *person* is an *approved person*, notification giving details of his name, the *approved person's* individual reference number and the position to which the notification relates, is sufficient.
- 15.4.2** **G** **SUP 15.4.1 R** is not made under the powers conferred on the FCA by Part V of the Act (Performance of Regulated Activities). A *person* notified to the FCA under **SUP 15.4.1 R** is not subject to the *Statements of Principle* or *Code of Practice for Approved Persons*, unless he is also an *approved person*.
- 15.4.3** **R** (1) A *firm* other than a *credit union* must submit the form in **SUP 15 Ann 2 R** online using the FCA's *online notification and application system*.
- (2) A *credit union* must submit the form in **SUP 15 Ann 2 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 15 Ann 2 R**, in the way set out in **SUP 15.7.4 R** to **SUP 15.7.9 G** (Form and method of notification).

- 15.4.3A **G**
- (1) 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 the alternative methods of submission set out in ■ SUP 15.4.3R(3) and ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification) should be used.
 - (2) Where ■ SUP 15.4.3R (3) applies to a *firm*, ■ GEN 1.3.2 R (Emergency) does not apply.
- 15.4.4 **G**
- If adverse information is revealed about a *person* notified to the *FCA* under ■ SUP 15.4.1 R, the *FCA* may exercise its *own-initiative power* against the *firm* (see ■ SUP 7 (Individual requirements)).



15.5 Core information requirements

Change in name

- 15.5.1 **R** A *firm* must give the FCA reasonable advance notice of a change in:
- (1) the *firm's* name (which is the registered name if the *firm* is a *body corporate*);
 - (2) any business name under which the *firm* carries on a *regulated activity* (other than a *regulated claims management activity*) or *ancillary activity* either from an establishment in the *United Kingdom* or with or for clients in the *United Kingdom*; and
 - (3) any business name under which the *firm* carries on a *regulated claims management activity* or *ancillary activity*.

15.5.2 **G** A notification under **■ SUP 15.5.1 R** should include the details of the proposed new name and the date on which the *firm* intends to implement the change of name.

15.5.3 **G** *Firms* are reminded that certain name changes (for example, to include 'Limited') may also require a notification under **■ SUP 15.5.1R**.

Change in address

- 15.5.4 **R** A *firm* must give the FCA reasonable advance notice of a change in any of the following addresses, and give details of the new address and the date of the change:
- (1) the *firm's* principal place of business in the *United Kingdom*;
 - (2) in the case of an *overseas firm*, its registered office (or head office) address.

Change in telephone numbers

- 15.5.5 **R** A *firm* must give the FCA reasonable advance notice of a change in any of the following telephone numbers, and give details of the new telephone number and the date of the change:
- (1) the number of the *firm's* principal place of business in the *United Kingdom*;
 - (2) in the case of an *overseas firm*, the number of its head office.

15.5.6 **G** ■ SUP 15.5.4 R and ■ SUP 15.5.5 R mean that a *firm* should notify the FCA of a change in telephone number even if the address of the office is not changing.

Other regulators

15.5.7 **R** A *firm* must notify the FCA immediately if it becomes subject to or ceases to be subject to the supervision of any *overseas regulator* (including a *Home State regulator*).

15.5.8 **G** The FCA's approach to the supervision of a *firm* is influenced by the regulatory regime and any legislative or foreign provisions to which that *firm*, including its branches, is subject.

Submitting notifications to the appropriate regulator

15.5.9 **R** (1) A *firm* other than:
 (a) a *credit union*; or
 (b) an *FCA-authorized person with permission to carry on only credit-related regulated activity*;

must submit any notice under ■ SUP 15.5.1R, ■ SUP 15.5.4R and ■ SUP 15.5.5 R by submitting the form in ■ SUP 15 Ann 3R online at the FCA's website.

(2) A *credit union* or an *FCA-authorized person with permission to carry on only credit-related regulated activity* (other than a *firm* with only an *interim permission* to which the modifications to ■ SUP 15 in ■ CONC 12 apply) must submit any notice under ■ SUP 15.5.1R, ■ SUP 15.5.4R, ■ SUP 15.5.5 R and ■ SUP 15.5.7R by submitting the form in ■ SUP 15 Ann 3R in the way set out in ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification).

(3) Where a *firm* is obliged to submit a notice online under (1), if the FCA's *appropriate regulator'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 any notice under ■ SUP 15.5.1R, ■ SUP 15.5.4R and ■ SUP 15.5.5 R in the form in ■ SUP 15 Ann 3R and in the way set out in ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification).

(4) A *firm* must submit any notice required under ■ SUP 15.5.7 R by submitting the form in ■ SUP 15 Ann 4 in the way set out in ■ SUP 15.7.4 R to ■ SUP 15.7.9 G (Form and method of notification).

15.5.10 **G** (1) 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 the alternative methods of submission set out in ■ SUP 15.5.9R(3) and ■ SUP 15.7.4R to ■ SUP 15.7.9G (Form and method of notification) should be used.

(2) Where ■ SUP 15.5.9R (2) applies to a *firm*, ■ GEN 1.3.2 R (Emergency) does not apply.



15.6 Inaccurate, false or misleading information

- 15.6.1** R A *firm* must take reasonable steps to ensure that all information it gives to the *FCA* in accordance with a *rule* in any part of the *Handbook* (including *Principle 11*) is:
- (1) factually accurate or, in the case of estimates and judgements, fairly and properly based after appropriate enquiries have been made by the *firm*; and
 - (2) complete, in that it should include anything of which the *FCA* would reasonably expect notice.
- 15.6.1A** R ■ SUP 15.6.1R also applies to all information given, or to be given, by a *firm* in accordance with any of the following:
- (1) a directly applicable provision imposed by *MiFIR* or any *EU regulation* adopted under *MiFID* or *MiFIR*; or
 - (2) a breach of any requirement imposed by or under either the *MiFI Regulations* or the *DRS Regulations*.
- 15.6.2** G ■ SUP 15.6.1 R applies also in relation to *rules* outside this chapter, and even if they are not *notification rules*. Examples of *rules* and chapters to which ■ SUP 15.6.1 R is relevant, are:
- (1) *Principle 11*, and the guidance on *Principle 11* in ■ SUP 2 (Information gathering by the *FCA* and *PRA* on their own initiative);
 - (2) ■ SUP 15 (Notifications to the *FCA*);
 - (3) ■ SUP 16 (Reporting requirements);
 - (4) [deleted]
 - (5) any *notification rule* (see Schedule 2 which contains a consolidated summary of such *rules*);
 - (6) ■ DISP 1.9 (Complaints record rule); and
 - (7) ■ DISP 1.10 (Complaints reporting rule).

- 15.6.3 **G** If a *firm* is unable to obtain the information required in ■ SUP 15.6.1 R(2), then it should inform the *FCA* that the scope of the information provided is, or may be, limited.
- 15.6.4 **R** If a *firm* becomes aware, or has information that reasonably suggests that it has or may have provided the *FCA* with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed in a material particular, it must notify the *FCA* immediately. Subject to ■ SUP 15.6.5 R, the notification must include:
- (1) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;
 - (2) an explanation why such information was or may have been provided; and
 - (3) the correct information.
- 15.6.5 **R** If the information in ■ SUP 15.6.4 R (3) cannot be submitted with the notification (because it is not immediately available), it must instead be submitted as soon as possible afterwards.
- 15.6.6 **G** The *FCA* may request the *firm* to provide revised documentation containing the correct information, if appropriate.
- 15.6.6A **G** ■ SUP 15.11.13R(4) adjusts the time when, and how, an *SMCR firm* should make updates under ■ SUP 15.6.4R about notifications under section 64C of the *Act* (Notification of disciplinary action against certain employees).
- 15.6.7 **G** *Firms* are reminded that section 398 of the *Act* (Misleading the *FCA* or *PRA*: residual cases) makes it an offence for a *firm* knowingly or recklessly to provide the *FCA* with information which is false or misleading in a material particular in purported compliance with the *FCA's rules* or any other requirement imposed by or under the *Act*. An offence by a *body corporate*, *partnership* or unincorporated association may be attributed to an *officer* or certain other *persons* (section 400 of the *Act* (Offences by bodies corporate etc)).



15.7 Form and method of notification

Form of notification: oral or written

15.7.1 **R** A notification required from a *firm* under any *notification rule* must be given in writing, and in English, and must be submitted on the form specified for that *notification rule*, or if no form is specified, on the form in **■ SUP 15 Ann 4 R** (Notification form), and must give the *firm's* Firm Reference Number unless:

- (1) the *notification rule* states otherwise; or
- (2) the notification is provided solely in compliance with *Principle 11* (see **■ SUP 15.3.7 G**).

15.7.2 **G** A *firm* should have regard to the urgency and significance of a matter and, if appropriate, should also notify its usual supervisory contact at the *FCA* by telephone or by other prompt means of communication, before submitting a written notification. Oral notifications should be given directly to the *firm's* usual supervisory contact at the *FCA*. An oral notification left with another person or left on a voicemail or other automatic messaging service is unlikely to have been given appropriately.

15.7.3 **G** The *FCA* is entitled to rely on any information it receives from a *firm* and to consider any notification received as being made by a *person* authorised by the *firm* to do so. A *firm* should therefore consider whether it needs to put procedures in place to ensure that only appropriate *employees* make notifications to the *FCA* on its behalf.

Method of notification

15.7.4 **R** Unless stated in the *notification rule*, or on the relevant form (if specified), a written notification required from a *firm* under any *notification rule* must be:

- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *FCA* and
- (2) delivered to the *FCA* by one of the methods in **■ SUP 15.7.5AR**.

15.7.5 **R**

[deleted]

15.7.5A **R** Methods of notification

| | Method of delivery |
|----|---|
| 1. | Post to the appropriate address in SUP 15.7.6A G |
| 2. | Leaving the notification at the appropriate address in SUP 15.7.6A G and obtaining a time-stamped receipt |
| 3. | Electronic mail to an address for the <i>firm's</i> usual supervisory contact at the FCA and obtaining an electronic confirmation of receipt |
| 4. | Hand delivery to the <i>firm's</i> usual supervisory contact at the FCA |
| 5. | Fax to a fax number for the <i>firm's</i> usual supervisory contact at the FCA and receiving a successful transmission report for all pages of the notification |
| 6. | Online submission via the FCA's website at www.fca.org.uk . |

15.7.6 **G** [deleted]

15.7.6A **G** The current published address of the FCA for postal submission or hand delivery of notifications is:

(1) The Financial Conduct Authority
12 Endeavour Square
London, E20 1JN

if the *firm's* usual supervisory contact at the FCA is based in London, or

(2) The Financial Conduct Authority
Quayside House 127
Fountainbridge
Edinburgh EH3 8DJ

if the *firm's* usual supervisory contact at the FCA is based in Edinburgh.

15.7.7 **G** If the *firm* or its *group* is subject to lead supervision arrangements by the FCA the *firm* or *group* may give or address a notice under ■ SUP 15.7.4 R(1) to the supervisory contact at the FCA designated as lead supervisor, if the *firm* has chosen to make use of the lead supervisor as a central point of contact (see ■ SUP 1.5).

15.7.8 **G** If a *firm* is a member of a *group* which includes more than one *firm*, any one *undertaking* in the *group* may notify the FCA on behalf of all *firms* in the *group* to which the notification applies. In this way, that *undertaking* may satisfy the obligation of all relevant *firms* in the *group* to notify the FCA. Nevertheless, the obligation to make the notification remains the responsibility of the individual *firm* itself. See also ■ SUP 15.7.3 G.

15.7.9 **G** *Firms wishing to communicate with the FCA by electronic mail or fax should obtain the appropriate address or number from the FCA appropriate regulator.*

Timely notification

15.7.10 **R** If a *notification rule* requires notification within a specified period:

- (1) the *firm* must give the notification so as to be received by the FCA no later than the end of that period; and
- (2) if the end of that period falls on a *day* which is not a *business day*, the notification must be given so as to be received by the FCA no later than the first *business day* after the end of that period.

15.7.11 **G** If a *notification rule* does not require notification within a specified period, the *firm* should act reasonably in deciding when to notify.

Underwriting agents: notification to the Society of Lloyd's

15.7.12 **R** (1) [deleted]
(2) [deleted]

15.7.13 **G** [deleted]

15.7.14 **G** The FCA has made arrangements with the *Society of Lloyd's* with respect to the monitoring of *underwriting agents*. *Underwriting agents* should check whether these arrangements provide for any notifications required under this chapter to be sent to the *Society* instead of to the FCA. [For further details see the FCA's website.]

Consequences of breach of form and method rules

15.7.15 **G** If a *firm* fails to comply with the *rules* in this section then the notification is invalid and there may be a breach of the *rule* that required the notification to be given.

Service of Notices Regulations

15.7.16 **G** The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the FCA. They do not apply to notifications required under *notification rules* because of the specific *rules* in this section.



15.8 Notification in respect of particular products and services

Management of occupational pension scheme assets

- 15.8.1 **R** A *firm* which manages the assets of an *occupational pension scheme* must notify the *FCA* as soon as reasonably practicable if it receives any request or instruction from a trustee which it:
- (1) knows; or
 - (2) on substantial grounds:
 - (a) suspects; or
 - (b) has cause reasonably to suspect;
- is at material variance with the trustee's duties.

Individual Pension Accounts

- 15.8.2 **R** If a *firm* begins or ceases to administer *individual pension accounts*, it must notify the *FCA* as soon as reasonably practicable that it has done so.

Insurers' commission clawback

- 15.8.3 **R**
- (1) An *insurer* must notify the *FCA* in respect of any *firm* (the "intermediary") as soon as reasonably practicable if:
 - (a) any amount of *commission* due from the intermediary to the *insurer* in accordance with an indemnity commission clawback arrangement remains outstanding for four *months* after the date when the *insurer* gave notice to the intermediary that the relevant *premium* had not been paid; or
 - (b) any amount of *commission* due from the intermediary to the *insurer* as a result of either the cancellation of an investment agreement or overpayment of *commission* remains outstanding for four *months* after the date on which the *insurer* gave notice to the intermediary that cancellation or overpayment had occurred.
 - (2) A notification in (1):
 - (a) need not be given unless the total amounts outstanding under (1)(a) and (b) in respect of the intermediary exceed £1,000; and
 - (b) must give the identity of the intermediary and the amount of *commission* which remains outstanding.

- (3) In (1) an "indemnity commission clawback arrangement" is an arrangement under which:
 - (a) an insurer pays *commission* to an intermediary before the date on which the *premium* is due under the relevant *investment agreement*; and
 - (b) the *insurer* requires repayment of the *commission*, if the *investment agreement* is terminated by reason of a failure to pay a premium.

Money service business and trust or company service providers

- 15.8.4 G (1) In accordance with regulation 23 of the *Money Laundering Regulations*, with effect from 26 June 2017 , a *firm* is required to notify the *FCA*:
 - (a) before it begins or within 28 days of it beginning; and
 - (b) immediately after it ceases;
 to operate a money service business or a trust or company service provider.
- (2) The notification referred to in (1) should be made in accordance with the requirements in ■ SUP 15.7 (Form and method of notification)

- 15.8.5 G A *firm* which is already operating a money service business or a trust or company service provider immediately before 26 June 2017 is required by the *Money Laundering Regulations* to notify the *FCA* of that fact within 30 days and should do so in the manner specified in ■ SUP 15.8.4 G(2).

Delegation by UK UCITS management companies

- 15.8.6 R If a *UK UCITS management company* intends to delegate to a third party any one or more of its functions for the more efficient conduct of its business, it must first inform the *FCA* in an appropriate manner.

[Note: article 13(1)(a) of the *UCITS Directive*]

- 15.8.7 G A *UK UCITS management company* which delegates any of its functions to a third party must, as well as complying with ■ SUP 15.8.6 R, comply with the requirements in ■ SYSC 8.1.13 R (Additional requirements for a management company) and ■ COLL 6.6.15 A R.

CTF providers

- 15.8.8 R (1) If a *firm* begins or ceases to hold itself out as acting as a *CTF provider*, it must notify the *FCA* as soon as reasonably practicable that it has done so.
- (2) A *firm* that acts as a *CTF provider* must provide the *FCA*, as soon as reasonably practicable, with details of:
 - (a) any third party administrator that it engages;

- (b) details of whether it intends to offer *HMRC allocated CTFs*; and
- (c) whether it intends to provide its own *stakeholder CTF* account.

15.8.9 **R** A *BIPRU firm* must report to the *FCA* immediately any case in which its counterparty in a *repurchase agreement* or *reverse repurchase agreement* or *securities or commodities lending or borrowing transaction* defaults on its obligations.

MCD credit intermediaries.....

15.8.10 **R** A *tiered MCD credit intermediary* must notify the *FCA*, as soon as reasonably practicable, if it intends to cease acting on behalf of and under the full responsibility of any *firm*.

15.8.11 **R** A *MCD credit intermediary* must notify the *FCA*, as soon as reasonably practicable, if it intends to start acting on behalf of and under the full responsibility of any *firm*.

Credit institutions providing account information services or payment initiation services.....

15.8.12 **D** Unless **■** SUP 15.8.13D applies, a *full credit institution* must notify the *FCA* before it starts to provide an *account information service* or a *payment initiation service*.

15.8.13 **D** A *full credit institution* which:

- (1) prior to 13 January 2018, started to provide a service which, if provided on or after 13 January 2018, would have constituted an *account information service* or a *payment initiation service*; and
- (2) continues to provide an *account information service* or a *payment initiation service* on 13 January 2018,

must notify the *FCA* that it is providing *account information services* or *payment initiation services* by 10 February 2018.

15.8.14 **D** A notification required under **■** SUP 15.8.12 or **■** SUP 15.8.13 must include a description of the *account information service* or *payment initiation service* that is being or is to be provided.

15.8.15 **D** The notification required under **■** SUP 15.8.12 or **■** SUP 15.8.13 must be made in accordance with the requirements in **■** SUP 15.7 (Form and method of notification).

15.9 Notifications by members of financial conglomerates

15.9.1 **R** A *firm* that is a *regulated entity* must notify the FCA immediately it becomes aware that any *consolidation group* of which it is a member:

- (1) is a *financial conglomerate*; or
- (2) has ceased to be a *financial conglomerate*.

15.9.2 **R** (1) A *firm* that is a *regulated entity* must establish whether or not any *consolidation group* of which it is a member:

- (a) is a *financial conglomerate*; or
- (b) has ceased to be a *financial conglomerate*;

if:

- (c) the *firm* believes; or
- (d) a reasonable *firm* that is complying with the requirements of the *regulatory system* would believe;

that it is likely that (a) or (b) is true.

(2) A *firm* does not need to determine whether (1)(a) is the case if the *consolidation group* is already being regulated as a *financial conglomerate*.

(3) A *firm* does not need to determine whether (1)(b) is the case if notification has already been given as contemplated by **■ SUP 15.9.4 R**.

15.9.3 **G** A *firm* should consider the requirements in **■ SUP 15.9.2 R** on a continuing basis, and in particular, when the *group* prepares its financial statements and on the occurrence of an event affecting the consolidated *group*. Such events include, but are not limited to, an acquisition, merger or sale.

15.9.4 **R** A *firm* does not have to give notice to the FCA under **■ SUP 15.9.1 R** if it or another member of the *consolidation group* has already given notice of the relevant fact to:

- (1) the FCA or

15.9.5

R

- (2) (if another *competent authority* is *co-ordinator* of the *financial conglomerate*) that *competent authority*; or
 - (3) (in the case of a *financial conglomerate* that does not yet have a *co-ordinator*) the *competent authority* who would be *co-ordinator* under Article 10(2) of the *Financial Groups Directive* (Competent authority responsible for exercising supplementary supervision (the *co-ordinator*)).
- (1) A *firm* must, at the level of the *EEA financial conglomerate*, regularly provide the *FCA* with details on the *financial conglomerate's* legal structure and governance and organisational structure, including all *regulated entities*, non-regulated subsidiaries and significant *branches*.
 - (2) A *firm* must disclose publicly, at the level of the *EEA financial conglomerate*, on an annual basis, either in full or by way of references to equivalent information, a description of the *financial conglomerate's* legal structure and governance and organisational structure.
 - (3) For the purposes of (1) and (2), where a *firm* is a member of an *EEA financial conglomerate* which is part of a wider *UK regulated EEA financial conglomerate*, reporting applies only at the level of the *EEA parent mixed financial holding company* or *ultimate EEA mixed financial holding company*.



15.10 Reporting suspicious transactions or orders (market abuse)

15.10.1 **R** [deleted]

Notification of suspicious transactions or orders: general

15.10.2 **R** [deleted]

15.10.2A **EU** [article 16 of the *Market Abuse Regulation*.]

Notification of suspicious transactions: investment firms and credit institutions

15.10.3 **R** [deleted]

15.10.4 **G**

(1) Notification of suspicious transactions or orders to the *FCA* requires sufficient indications (which may not be apparent until after the transaction has taken place) that the transaction or order might constitute *market abuse*. In particular a *person* subject to article 16 of the *Market Abuse Regulation* will need to be able to explain the basis for the suspicion when notifying the *FCA*. Certain transactions or orders by themselves may seem completely devoid of anything suspicious, but might deliver such indications of possible *market abuse*, when seen in perspective with other transactions, certain behaviour or other information (though *persons* subject to article 16 of the *Market Abuse Regulation* are not expected to breach effective information barriers put in place to prevent and avoid conflicts of interest so as actively to seek to detect suspicious transactions).

(2) Assistance in identifying the elements constituting *market abuse* can be found within the *Market Abuse Regulation*.

| | | |
|---------|---|---|
| | | Timeframe for notification |
| 15.10.5 | R | [deleted] |
| | | Content of notification |
| 15.10.6 | R | [deleted] |
| | | Means of notification |
| 15.10.7 | G | A person subject to article 16 of the <i>Market Abuse Regulation</i> making a notification to the FCA under this section may do so using the system indicated on the FCA's website. |
| 15.10.8 | G | [deleted] |
| 15.10.9 | R | [deleted] |



15.11 Notification of COCON breaches and disciplinary action

Reasons for making a notification to the FCA

- 15.11.1 G Under section 64A of the *Act*, the *FCA* may make *rules* about the conduct of *approved persons* and certain other *persons* who work for a *firm*.
- 15.11.2 G *COCON* sets out *rules* under section 64A of the *Act* and *guidance* on those *rules* for *SMCR firms*.
- 15.11.3 G [deleted]
- 15.11.4 G Under section 64C of the *Act*, a *firm* must notify the *FCA* if it takes disciplinary action against certain people working for an *SMCR firm* and the reason for this action is a reason specified in *rules* made by the *FCA* (those *rules* are set out in ■ SUP 15.11.6R).
- 15.11.5 G Disciplinary action against a *person* is defined in section 64C of the *Act* as the issuing of a formal written warning, the suspension or dismissal of that *person* or the reduction or recovery of any of such *person's* remuneration.
- 15.11.6 R If a reason for taking disciplinary action as referred to in section 64C of the *Act* (Requirement for authorised persons to notify regulator of disciplinary action) is any action, failure to act or circumstance that amounts to a breach of *COCON*, then the *SMCR firm* is required to notify the *FCA* of the disciplinary action.
- 15.11.6A G The effect of section 64C of the *Act* and ■ SUP 15.11.6R is that the reporting obligation in section 64C of the *Act* and in this section:
 - (1) only applies to *SMCR firms*; and
 - (2) only covers *persons* who are subject to *COCON* (who are called *conduct rules staff* in the *FCA Handbook*) rather than to the whole workforce of an *SMCR firm*.
- 15.11.7 G A *firm* should make a separate notification about a *person* under section 64C of the *Act* where:
 - (1) it has made a notification to the *FCA* about the *person* pursuant to ■ SUP 15.3.11R(1)(a) because of a breach of *COCON*; and

(2) it subsequently takes disciplinary action against the *person* for the action, failure to act, or circumstance, that amounted to a breach of COCON.

15.11.8 **G** If, after a *firm* has made a notification for a *person* (A) pursuant to section 64C of the *Act*, it becomes aware of facts or matters which cause it to change its view that A has breached COCON, or cause it to determine that A has breached a provision of COCON other than the provision to which the notification related, the *firm* should inform the FCA of those facts and matters and its revised conclusion in line with a *firm's* obligation to comply with Principle 11, ■ SUP 15.6.4R and, if applicable, ■ SUP 10C or ■ SUP 15.11.13R(4).

15.11.9 **G** (1) If a *firm* takes disciplinary action as a result of a conduct breach (see ■ SUP 15.11.6R) against an *employee* but the *employee* has appealed or plans to appeal, the *firm* should still report the disciplinary action under section 64C of the *Act* but should include the appeal in the notification.

(2) The *firm* should update the FCA on the outcome of any appeal.

15.11.10 **G** [deleted]

15.11.11 **G** In relation to any *conduct rules staff*, the FCA does not expect a *firm* to notify it pursuant to section 64C of the *Act* if the breach of COCON occurred before the application of COCON to that *firm*.

Timing and form of notifications: SMF managers

15.11.12 **G** Where a *firm* is required to notify the FCA pursuant to section 64C of the *Act* and that notification relates to an *SMF manager*, ■ SUP 10C sets out how and when the notification must be made, and the relevant *notification rules* in ■ SUP 10C apply.

Timing and form of notifications: conduct rules staff other than SMF managers

15.11.13 **R** (1) A *firm* must make any notifications required pursuant to section 64C of the *Act* relating to *conduct rules staff* other than *SMF managers* in accordance with ■ SUP 15.11.13R to ■ SUP 15.11.15R.

(2) That notification must be made annually.

(3) Each notification must:

- (a) cover the 12 *month* period ending on the last day of August; and
- (b) be submitted to the FCA:
 - (i) within two months of the end of the reporting period; or
 - (ii) (if the end of the submission period in (b)(i) falls on a *day* which is not a *business day*) so as to be received no later than the first *business day* after the end of that submission period.

- (4) ■ SUP 15.6.4R and ■ SUP 15.6.5R (updates to a notification that is or has become incorrect) apply to a notification under this *rule* but the *firm* must include the update or correction in the next notification it is due to make under this *rule* rather than in the time and manner otherwise required for notifications under those *rules*.
- (5) If a *firm* (other than a *credit union*) has nothing to report under section 64C of the *Act* and nothing to report under ■ SUP 15.11.13R(4) for a particular reporting period, it must notify the *FCA* of that fact in accordance with ■ SUP 15.11.13R to ■ SUP 15.11.14R.

15.11.13A **G** ■ SUP 15.11.8G and ■ SUP 15.11.9G(2) give examples of when a notification should be updated under ■ SUP 15.11.13R(4).

- 15.11.14 **R**
- (1) A *firm* other than a *credit union* must make each notification pursuant to ■ SUP 15.11.13R (notifications about section 64C of the *Act* relating to *conduct rules staff* other than *SMF managers*) by submitting it online through the *FCA*'s website using the electronic system made available by the *FCA* for this purpose.
 - (2) A *firm* must use the version of Form H (named REP008 – Notification of Disciplinary Action) made available on the electronic system referred to in (1), which is based on the version found in ■ SUP 15 Annex 7R.
 - (3) If the information technology systems used by the *FCA* fail and online submission is unavailable for 24 hours or more, ■ SUP 15.11.15R applies until such time as the facilities for online submission are restored.

- 15.11.14A **G**
- (1) If the information technology systems used by the *FCA* fail and online submission is unavailable for 24 hours or more, the *FCA* will endeavour to publish a notice on its website confirming that:
 - (a) online submission is unavailable; and
 - (b) the alternative methods of submission in ■ SUP 15.11.15R apply.
 - (2) Where ■ SUP 15.11.14R(3) applies to a *firm*, ■ GEN 1.3.2R (Emergency) does not apply.

15.11.15 **R** A *credit union* must make each notification pursuant to ■ SUP 15.11.13R (notifications about section 64C of the *Act* relating to *conduct rules staff* other than *SMF managers*) in accordance with the *rules* and *guidance* in ■ SUP 15.7, using Form H as set out in ■ SUP 15 Annex 7R.

- 15.11.15A **R**
- (1) If a *firm* to which ■ SUP 15.11.14R applies fails to submit a completed notification under ■ SUP 15.11.13R by the date on which it is due, in accordance with ■ SUP 15.11.13R, the *firm* must pay an administrative fee of £250.
 - (2) The administrative fee in (1) does not apply if the *firm* is unable to submit a report in electronic format within the time required because of a systems failure of the kind described in ■ SUP 15.11.14R(3).

General guidance on notifications of rule breaches and disciplinary action

- 15.11.16 G [deleted]

- 15.11.17 G The obligation to notify pursuant to section 64C of the *Act* or to update or correct a notification under ■ SUP 15.11.13R(4) does not replace or limit a *firm's* obligation to comply with *Principle* 11.

- 15.11.18 G When considering whether to make a notification pursuant to section 64C of the *Act*, a *firm* should also consider whether a notification should be made under any *notification rules*, including, without limitation, any *notification rules* that require a notification to be made to the *PRA*.

- 15.11.19 G The obligations to make a notification pursuant to section 64C of the *Act* apply notwithstanding any agreement (for example a 'COT 3' Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS)) or any other arrangements entered into by a *firm* and an *employee* upon termination of the *employee's* employment. A *firm* should not enter into any such arrangements or agreements that could conflict with its obligations under this section.

- 15.11.20 G Failing to disclose relevant information to the *FCA* may be a criminal offence under section 398 of the *Act*.

15.12 Ongoing alerts for retail adviser complaints

15.12.1 R

A *firm* must notify the FCA, using the form in ■ SUP 15 Annex 8R, where:

- (a) in any 12-month period, it has upheld three *complaints* about matters relating to activities carried out by any one *employee* when acting as a *retail investment adviser*; or
 - (b) it has upheld a *complaint* about matters relating to activities carried out by any one *employee* when acting as a *retail investment adviser*, where the redress paid exceeds £50,000.
- (2) A notification made under (1)(a) must be made by the end of the period of 20 *business days*, beginning on the day on which the *firm* upheld the third complaint.
- (3) A notification made under (1)(b) must be made by the end of the period of 20 *business days*, beginning on the day on which the *firm* upheld the complaint.

15.12.2 G

For the purpose of ■ SUP 15.12.1R:

- (1) when calculating the number of *complaints* in ■ SUP 15.12.1R(1)(a), the *firm* should exclude *complaints* previously notified to the FCA under this rule;
- (2) redress, under ■ SUP 15.12.1R(1)(b), should be interpreted to include an amount paid, or cost borne, by the *firm*, where a cash value can be readily identified, and should include:
 - (a) amounts paid for distress and inconvenience;
 - (b) a free transfer out to another provider for which a transfer would normally be paid for;
 - (c) goodwill payments and gestures;
 - (d) interest on delayed settlements;
 - (e) waiver of an excess on an insurance policy; and
 - (f) payments to put the consumer back into the position the consumer should have been in had the act or omission not occurred; and
- (3) the amount of redress paid under ■ SUP 15.12.1R(1)(b) should not include repayments or refunds of premiums which have been taken in error (for example, where a *firm* has been taking, by direct debit,

twice the actual premium amount due under a policy) and the refund of the overcharge would not count as redress.

[Note: See ■ DISP 1.10.2AR for the duty to notify *complaints* under the *complaints reporting rules*]

15.12.3 **R** Notifications under ■ SUP 15.12.1R must be made electronically using a method of notification prescribed by the FCA.



15.13 Notification by CBTL firms

Application and purpose

15.13.1 **G** This section sets out guidance for *CBTL firms* to assist them in complying with their obligation to notify the *FCA* immediately if they cease to satisfy any condition for registration in article 8(2) or 8(3) of the *MCD Order*.

[**Note:** article 12 of the *MCD Order*]

15.13.2 **G** The nature of a *CBTL firm's* obligation under article 12 of the *MCD Order* will depend on whether the *CBTL firm* has a *Part 4A permission* to carry on one or more *regulated activities*.

CBTL firms which have Part 4A permission

15.13.3 **G** The circumstances in which a *CBTL firm* which has a *Part 4A permission* should notify the *FCA* include but are not limited to when:

- (1) it ceases to carry on *CBTL business* and does not propose to resume carrying on *CBTL business* in the immediate future. This does not include circumstances where the *CBTL firm* temporarily withdraws its products from the market or is preparing to launch fresh products; or
- (2) it applies to cancel its *Part 4A permission*; or
- (3) it applies to vary its *Part 4A permission* so that once the variation takes effect it will cease to hold any *Part 4A permission*; or
- (4) it receives a *final notice* to cancel its *Part 4A permission*; or
- (5) it receives a second *supervisory notice* to vary its *Part 4A permission* so that once the variation takes effect it will cease to hold any *Part 4A permission*.

CBTL firms which do not have a Part 4A permission

15.13.4 **G** The circumstances in which a *CBTL firm* which does not have a *Part 4A permission* should notify the *FCA* include but are not limited to when:

- (1) it ceases to carry on *CBTL business* and does not propose to resume carrying on *CBTL business* in the immediate future; this does not include circumstances where the *CBTL firm* temporarily withdraws its products from the market or is preparing to launch fresh products; or

- (2) it changes its registered office or place of residence as the case may be so that it is no longer in the *United Kingdom*; or
- (3) any individual responsible for the management or operation of the *CBTL business* within the *CBTL firm*:
 - (a) is convicted of any offence involving fraud or dishonesty or any indictable offence, including any act or omission which would have been an offence if it had taken place in the *United Kingdom*; or
 - (b) becomes subject to a prohibition order; or
- (4) it takes on an individual to be responsible for the management or operation of the *CBTL business* within the *CBTL firm* who has been:
 - (a) convicted of any offence involving fraud or dishonesty or any indictable offence, including any act or omission which would have been an offence if it had taken place in the *United Kingdom*; or
 - (b) is subject to a *prohibition order*; or
- (5) (if the *CBTL firm* is an *undertaking*) any person who:
 - (a) holds 10% or more of the shares in the *CBTL firm* or in a parent undertaking of the *CBTL firm*; or
 - (b) holds 10% or more of the voting power in the *CBTL firm* or in a parent undertaking of the *CBTL firm*; or
 - (c) holds shares or voting power in the *CBTL firm* or in a parent undertaking of the *CBTL firm* as a result of which he is able to exercise significant influence over the management of the *CBTL firm*;

ceases to be a fit and proper person having regard to the need to ensure the sound and prudent conduct of the affairs of the *CBTL firm*; or
- (6) (if the *CBTL firm* is an *undertaking*) any person who is not a fit and proper person, having regard to the need to ensure the sound and prudent conduct of the affairs of the *CBTL firm*, acquires an interest such that he:
 - (a) holds 10% or more of the shares in the *CBTL firm* or in a *parent undertaking* of the *CBTL firm*; or
 - (b) holds 10% or more of the voting power in the *CBTL firm* or in a *parent undertaking* of the *CBTL firm*; or
 - (c) holds shares or voting power in the *CBTL firm* or in a *parent undertaking* of the *CBTL firm* as a result of which he is able to exercise significant influence over the management of the *CBTL firm*; or
- (7) any of the following persons cease to be of good repute:
 - (a) a person responsible for the management of the *CBTL firm*; or
 - (b) a person responsible for the *CBTL firm's CBTL business*; or
 - (c) a director of the *CBTL firm* (if the *CBTL firm* is a body corporate); or
- (8) a person who is not of good repute becomes:

- (a) responsible for the management of the *CBTL firm*; or
 - (b) responsible for the *CBTL firm's CBTL business*; or
 - (c) a director of the *CBTL firm* (if the *CBTL firm* is a *body corporate*); or
- (9) (if the *CBTL firm* is a *CBTL arranger* or a *CBTL adviser*) it ceases to hold professional indemnity insurance as described in article 8(f) of the *MCD Order*; or
- (10) the individuals responsible for the management or operation of the *CBTL business* of the *CBTL firm* lack an appropriate level of knowledge or competence in relation to *CBTL credit agreements*.

Method, form and timing of notifications

15.13.5

G

Any notification given by a *CBTL firm* under article 12 of the *MCD Order* should be:

- (1) in writing;
- (2) in English;
- (3) given to or addressed for the attention of the *CBTL firm's* usual supervisory contact at the *FCA* (where the *CBTL firm* does not have an identified supervisory contact this will be the *FCA's* Contact Centre);
- (4) delivered to the *FCA* by one of the methods in ■ SUP 15.7.5AR to the appropriate address set out in ■ SUP 15.7.6AG; and
- (5) given by a person who has full knowledge of the facts giving rise to the notification and who is responsible for the management of the *CBTL firm* or the *CBTL firm's CBTL business*.

15.13.6

G

A notification given under article 12 of the *MCD Order* should contain at least the following information:

- (1) the *CBTL firm's* name and reference number;
the name and telephone, postal and email (where available) contact details of the person responsible for making the notification;
- (2) a statement that the notification is given under article 12 of the *MCD Order*;
- (3) a statement setting out the specific condition of article 8 of the *MCD Order* that the notification relates to;
- (5) full details of the facts giving rise to the notification, including in particular when the relevant events occurred and when the *CBTL firm* became aware of them (if different); and
- (6) full details of any steps taken or proposed to be taken by the *CBTL firm* to address the issues giving rise to the obligation to make the notification, including a proposed timeline for the steps, if applicable.

- 15.13.7 **G** The *MCD Order* requires notification to be given immediately. The *FCA* expects *CBTL firms* to act with all due urgency in notifying it of any relevant event, and it is unlikely that the *FCA* will regard delay in excess of 5 working days as complying with the *CBTL firm's* obligations.



15.14 Notifications under the Payment Services Regulations

Application

15.14.1 **G** This section applies to *payment service providers*.

Purpose

15.14.2 **G** The purpose of this section is to give directions and guidance to *payment service providers* relating to the form, content and timing of notifications required under the *Payment Services Regulations*.

Notification by credit institutions under regulation 105

15.14.3 **D** A *full credit institution* to which regulation 105 of the *Payment Services Regulations* applies must notify the FCA if it refuses a request for access to *payment account services* from:

- (1) a *person* falling within paragraphs (1)(a) to (e) (excluding (1)(d)) of the *Glossary* definition of *payment service provider*; or
- (2) an applicant for authorisation or registration as such a *payment service provider*.

15.14.4 **G** References in this section to a refusal of a request for access to *payment account services* include a withdrawal or termination of access to such services.

15.14.5 **G** A notification required by regulation 105(3) of the *Payment Services Regulations* and **■** SUP 15.14.3D must include duly motivated reasons for the refusal.

15.14.6 **D** Unless the FCA directs otherwise, a notification required by regulation 105(3) of the *Payment Services Regulations* and **■** SUP 15.14.3D must be submitted by the *full credit institution* to the FCA:

- (1) in the form specified in **■** SUP 15 Annex 9D;
- (2) by electronic means made available by the FCA; and
- (3) at the same time as it informs the *person* referred to in **■** SUP 15.14.3D(1) or **■** (2) of its refusal.

15.14.7 **D** If for any reason the *full credit institution* does not notify the *person* referred to in ■ SUP 15.14.3D(1) or ■ (2) of its refusal, the *full credit institution* must submit the notification required by ■ SUP 15.14.3D immediately following the decision by the *full credit institution* to refuse access.

15.14.8 **G** The direction in ■ SUP 15.14.6D will not apply if the *FCA* gives a different direction to a specific *credit institution*, in the light of the particular circumstances surrounding a refusal of access to *payment account services*, about how to notify the *FCA*. The *FCA* is likely to be minded to do so where a *credit institution* decides to withdraw access to a large number of *persons* falling within paragraphs (1)(a) to (e) (excluding (1)(d)) of the *Glossary* definition of *payment service provider* simultaneously, such that complying with ■ SUP 15.14.6D becomes impractical, and provides advance notice of the proposed withdrawal to their usual supervisory contact at the *FCA*. For these purposes, fewer than ten *persons* is unlikely to be considered a large number.

15.14.9 **G** *Credit institutions* are reminded of the general notification requirements in ■ SUP 15.3, including the obligation to notify the *FCA* as soon as they become aware of any matter (including a matter which may occur in the foreseeable future) which could affect their ability to continue to provide adequate services to their *customers* and which could result in serious detriment to a *customer* of the *credit institution* (■ SUP 15.3.1R(3)).

Notification by account servicing payment service providers under regulation 71

15.14.10 **D** An *account servicing payment service provider* to which regulation 71(8)(c) of the *Payment Services Regulations* applies must notify the *FCA* if it denies an *account information service provider* or a *payment initiation service provider* access to a *payment account* under regulation 71(7).

15.14.11 **D** A notification required by regulation 71(8)(c) of the *Payment Services Regulations* and ■ SUP 15.14.10D must include details of the case and the reasons for denying access.

15.14.12 **D** A notification required by regulation 71(8)(c) of the *Payment Services Regulations* and ■ SUP 15.14.10D must be submitted by the *account servicing payment service provider* to the *FCA*:

- (1) in the form specified in ■ SUP 15 Annex 10
- (2) by electronic means made available by the *FCA*; and
- (3) immediately after the first occasion on which it denies the *account information service provider* or the *payment initiation service provider* in question access to a *payment account*.

- 15.14.13 **G** Where:
- (1) an *account servicing payment service provider* denies access to more than one *payment account* or to a *payment account* on multiple consecutive occasions; and
 - (2) these denials of access:
 - are in respect of the same *account information service provider* or *payment initiation service provider*; and
 - (b) arise out of the same facts and happen for the same reasons, the *account servicing payment service provider* is required to submit only a single notification in respect of them under regulation 71(8)(c) of the *Payment Services Regulations* and ■ SUP 15.14.10D.
- 15.14.14 **G** Where an *account servicing payment service provider* has already submitted a notification in accordance with regulation 71(8)(c) of the *Payment Services Regulations* and ■ SUP 15.14.10D and continues to deny access to a *payment account*, it is not required to notify the FCA of a consecutive denial of access that happens after the original notification was sent if it:
- (1) is in respect of the same *account information service provider* or *payment initiation service provider*; and
 - (2) arises out of the same facts and happens for the same reasons.
- 15.14.15 **D** An *account servicing payment service provider* that has previously submitted a notification in accordance with regulation 71(8)(c) of the *Payment Services Regulations* and ■ SUP 15.14.10D must notify the FCA if it subsequently restores access to the *payment account* for the *account information service provider* or *payment initiation service provider* that was the subject of the original notification, unless it indicated in the first notification that it intended to immediately restore access and access was so restored.
- 15.14.16 **D** A notification required under ■ SUP 15.14.15D must be submitted by the *account servicing payment service provider* to the FCA:
- (1) in the form specified in ■ SUP 15 Annex 10;
 - (2) by electronic means made available by the FCA; and
 - (3) immediately after it restores access to the *payment account(s)* for the *account information service provider* or *payment initiation service provider*.
- 15.14.17 **G** For the purposes of ■ SUP 15.14.12D and ■ SUP 15.14.16D we would expect the *account servicing payment service provider* to complete and submit the notification as quickly as possible.

Notification of major operational or security incidents under regulation 99

- 15.14.18 **G** Regulation 99(1) of the *Payment Services Regulations* provides that, if a *payment service provider* becomes aware of a major operational or security incident, the *payment service provider* must, without undue delay, notify the FCA. The purpose of this section is to direct the form and manner in which such notifications must be made and the information they must contain, in exercise of the power in regulation 100(2) of the *Payment Services Regulations*.

- 15.14.19 **G** The EBA has issued Guidelines on incident reporting under the *Payment Services Directive* that specify the criteria a *payment service provider* should use to assess whether an operational or security incident is major and needs to be reported to the FCA. These Guidelines also specify the format for the notification and the procedures the *payment service provider* should follow.

- 15.14.20 **D** *Payment service providers* must comply with the EBA's Guidelines on incident reporting under the *Payment Services Directive* as issued on 27 July 2017 where they are addressed to *payment service providers*.

- 15.14.21 **D** In particular, a notification required by regulation 99(1) of the *Payment Services Regulations* must be submitted by the *payment service provider* to the FCA:
 - (1) within the timescales and at the frequencies specified in the EBA's Guidelines on incident reporting under the *Payment Services Directive*;
 - (2) in writing on the form specified in ■ SUP 15 Annex 11D; and
 - (3) by such electronic means as the FCA may specify.

- 15.14.22 **G** *Payment service providers* should note that article 16(3) of Regulation (EU) No 1093/2010 also requires them to make every effort to comply with the EBA's Guidelines on incident reporting under the *Payment Services Directive*.

- 15.14.23 **G** Where the electronic means of submission of notifications is known not to be available or operated at the time the incident is first detected, the notification should be sent to the FCA as soon as the electronic means of submission becomes available and operational again. Unless the FCA has informed a specific *payment service provider* that electronic means of submission are also available to it and operated at other times, the electronic means of submission are available and operated during normal operating hours, as specified by the FCA.

- 15.14.24 **G** The EBA's Guidelines on incident reporting under the *Payment Services Directive* contain guidelines on the completion of the form specified in ■ SUP 15 Annex 11D. *Payment service providers* should use the same form in all reports concerning the same incident. *Payment service providers* may not have sufficient information to complete all parts of the form in the initial report. They should complete the form in an incremental manner and on a

best effort basis as more information becomes readily available in the course of their internal investigations.

General provisions

15.14.25 **D** ■ SUP 15.6.1R to ■ SUP 15.6.6G (Inaccurate, false or misleading information) apply to *payment service providers* that are required to make notifications in accordance with this section as if a reference to *firm* in ■ SUP 15.6.1R to ■ SUP 15.6.6G were a reference to the relevant category of *payment service provider* and a reference to a *rule* were a reference to the directions in this section.

15.14.26 **G** *Payment service providers* are reminded that regulation 142 of the *Payment Services Regulations* (Misleading the FCA or the Payment Systems Regulator) makes it an offence for a *person* to knowingly or recklessly provide the FCA with information which is false or misleading in a material particular in purported compliance with the directions given in this section or any other requirement imposed by or under the *Payment Services Regulations*.

15.14.27 **G** If a *payment service provider* fails to comply with the directions in this section then the notification is invalid and there may be a breach of the regulation of the *Payment Services Regulations* or the direction that required the notification to be given.

15.14.28 **G** The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the FCA. They do not apply to notifications required under this section because of the specific directions given in this section.

Notification that a fraud rate has been exceeded (article 20 of the SCA RTS)

15.14.29 **G** Article 18 of the *SCA RTS* permits *payment service providers* not to apply strong customer authentication where the *payer* initiates a remote electronic payment transaction identified by the *payment service provider* as posing a low level of risk according to the transaction monitoring mechanism referred to in article 2 and article 18 of the *SCA RTS*.

15.14.30 **G** Article 19 of the *SCA RTS* requires *payment service providers* to ensure that the overall fraud rates per quarter for transactions executed under the article 18 exemption are equivalent to or lower than the reference fraud rates indicated in the Annex to the *SCA RTS*. Article 19 defines a quarter as 90 days.

15.14.31 **G** Where a fraud rate calculated in compliance with article 19 of the *SCA RTS* exceeds the applicable reference fraud rate, article 20(1) of the *SCA RTS* requires *payment service providers* to immediately report to the FCA, providing a description of the measures that they intend to adopt to restore compliance with the reference fraud rates.

15.14.32 **G** *Payment service providers* should report in respect of each quarter in which a fraud rate exceeds the applicable reference rate.

15.14.33 **G** Where a fraud rate exceeds the applicable reference rate for two consecutive quarters, the *payment service provider* is required by article 20(2) of the SCA RTS to immediately cease to make use of the article 18 exemption. The report for the second quarter should confirm that the *payment service provider* has ceased to make use of the article 18 exemption.

15.14.34 **D** *Payment service providers* required by article 20(1) of the SCA RTS to report to the FCA must do so:

- (1) in the form specified in ■ SUP 15 Annex 12D;
- (2) by electronic means made available by the FCA; and
- (3) immediately after the monitored fraud rate exceeds the applicable reference fraud rate.

15.14.35 **D** A *payment service provider* that has previously ceased to make use of the article 18 exemption in accordance with article 20(2) of the SCA RTS must notify the FCA in accordance with article 20(4) of the SCA RTS before again making use of the article 18 exemption:

- (1) in the form specified in ■ SUP 15 Annex 12D;
- (2) by electronic means made available by the FCA; and
- (3) in a reasonable timeframe and before making use again of the article 18 exemption.

15.14.36 **G** A *payment service provider* notifying the FCA before again making use of the article 18 exemption must provide evidence of the restoration of compliance of their monitored fraud rate with the applicable reference fraud rate for that exemption threshold range for one quarter, under article 20(4) of the SCA RTS.

15.14.37 **G** Notifying the FCA one *month* before making use again of the article 18 exemption would be a reasonable timeframe within the meaning of ■ SUP 15.14.35D(3).

Notifying problems with a dedicated interface (article 33(3) of the SCA RTS)

15.14.38 **D** *Account information service providers, payment initiation service providers, payment service providers issuing card-based payment instruments, and account servicing payment service providers* must report problems with dedicated interfaces as required by article 33(3) of the SCA RTS to the FCA:

- (a) without undue delay;

- (b) using the form set out in ■ SUP 15 Annex 13D; and
- (c) by electronic means made available by the FCA.

15.14.39 **G** The following problems with dedicated interfaces should be reported:

- (a) the interface does not perform in compliance with article 32 of the SCA RTS; or
- (b) there is unplanned unavailability of the interface or a systems breakdown.

Unplanned unavailability or a systems breakdown may be presumed to have arisen when five consecutive requests for access to information for the provision of payment initiation services or account information services are not replied to within 30 seconds.

Application of SUP 15 to incoming EEA firms, incoming Treaty firms, EEA authorised payment institutions and EEA authorised electronic money institutions

- 1 . SUP 15 **applies in full to an incoming EEA firm, or incoming Treaty firm , which has a top-up permission.**
- 2 . [deleted]
- 2A [deleted]
- 3 . **For any other incoming EEA firm, incoming Treaty firm, EEA authorised payment institution or EEA authorised electronic money institution, SUP 15 applies as set out in the following table.**

| Applicable sections | | Application |
|--------------------------------|---|--|
| SUP 15.1, SUP 15.2 | Application, Purpose | Apply in full |
| SUP 15.3.1 R to SUP 15.3.6 G | Matters having a serious regulatory impact | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15.3.7 G to SUP 15.3.10 G | Communication with the FCA in accordance with Principle 11 | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15.3.11 R to SUP 15.3.14 G | Breaches of rules and other requirements in or under the Act | Apply in full |
| SUP 15.3.15 R to SUP 15.3.16 G | Civil, criminal or disciplinary proceedings against a firm | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15.3.17 R to SUP 15.3.20 G | Fraud, errors and other irregularities | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15.3.2 G | Insolvency, bankruptcy and winding up | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15.3.32R to SUP 15.3.35G | Competition law infringements | Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator |
| SUP 15 | Notified persons | Does not apply |
| SUP 15.5.1 R to SUP 15.5.3 G | Change in name | Apply in full |
| SUP 15.5.4 R | Change in address: principal place of business in the UK | Applies in full |

| Applicable sections | | Application |
|-------------------------------|--|---|
| SUP 15.5.4 R (2) | Change in address: registered office | Applies to an <i>incoming Treaty firm</i> . Does not apply to an <i>incoming EEA firm</i> , but see SUP 14 (Incoming EEA firms: changing authorisation and cancelling qualification for authorisation). |
| SUP 15.5.5 R to SUP 15.5.6 G | Change in telephone numbers | Applies in full |
| SUP 15.5.7 R and SUP 15.5.8 G | Other regulators | Apply in so far as responsibility for the matter in question is not reserved by an <i>EU instrument</i> to the <i>firm's Home State regulator</i> |
| SUP 15.6 | Inaccurate, false or misleading information | Applies in full |
| SUP 15.7 | Form and method of notification | Applies in full |
| SUP 15.8 | Notifications in respect of particular products and services | Applies in full |
| SUP 15.10 | Reporting suspicious transactions or orders (market abuse) | Applies in full subject to article 16 of the <i>Market Abuse Regulation</i> |
| SUP 15.11 | Notification of COCON breaches and disciplinary action | Applies in full |
| SUP 15.14 | Notifications under the <i>Payment Services Regulations</i> | Apply in so far as responsibility for the matter in question is not reserved by an <i>EU instrument</i> to the <i>payment service provider's Home State regulator</i> |

- SUP 15 does not apply to an *incoming EEA firm* which has *permission* for *cross border services* only and which does not carry on *regulated activities* in the *United Kingdom*.
- SUP 15 does not apply to an *EEA pure reinsurer* which does not have a *top-up permission*.
- SUP 15 does not apply to an *EEA authorised payment institution* or an *EEA authorised electronic money institution* which exercises *passport rights* in the *United Kingdom* on a *cross border services* basis only.

Form F: Changes in notified persons

This annex consists only of one or more forms. Forms can be completed online now by visiting: the FCA's website.

The forms are also to be found through the following address:

Supervision forms - SUP 15 Annex 2 The notes for the form can be found at the following address
Form F notes

Notification to amend firm details form

This form can be completed online now by visiting the *FCA's* website.

The form is also to be found through the following address: *Notification to amend firm details* – SUP 15 Annex 3

Notification form

This annex consists only of one or more forms. Forms are to be found through the following address:

Notifications Form - SUP 15 Annex 4

Indications of Possible Suspicious Transactions or Orders

1. The following examples of indications are intended to be a starting point for consideration of whether a transaction or order is suspicious. They are neither conclusive nor comprehensive.
- Possible Signals of Insider Dealing
2. A client opens an account and immediately gives an order to conduct a significant transaction or, in the case of a wholesale client, an unexpectedly large or unusual order, in a particular security - especially if the client is insistent that the order is carried out very urgently or must be conducted before a particular time specified by the client.
 3. A transaction or order is significantly out of line with the client's previous investment behaviour (e.g. type of security; amount invested; size of order; time security held).
 4. A client specifically requests immediate execution of an order regardless of the price at which the order would be executed (assuming more than a mere placing of 'at market' order by the client).
 5. There is unusual trading in the shares of a company before the announcement of price sensitive information relating to the company.
 6. An employee's own account transaction is timed just before clients' transactions and related orders in the same financial instrument.
 7. [deleted]
 8. [deleted]
 9. [deleted]

Notifications by UK AIFMs

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

The forms referred to below can be found in the following Annexes in *SUP*:

- SUP 15 Annex 6A R - AIFMD new fund under management notification
- SUP 15 Annex 6B R - AIFMD notification of senior personnel amendments or removal form
- SUP 15 Annex 6C R - AIFMD full-scope UK AIFM material change notification
- SUP 15 Annex 6D R - AIFMD notice of sub-threshold AIFM exceeding AuM limit
- SUP 15 Annex 6E D - AIFMD small registered AIFM change form
- SUP 15 Annex 6F G - EuSEF and EuVECA management and marketing notifications

AIFMD new fund under management notification

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6AR - AIFMD new fund under management notification

AIFMD notification of senior personnel amendments or removal form

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6BR - AIFMD notification of senior personnel amendments or removal form

AIFMD full-scope UK AIFM material change notification

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6CR - AIFMD full-scope UK AIFM material change notification

AIFMD notice of sub-threshold AIFM exceeding AuM limit

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6DR - AIFMD notice of sub-threshold AIFM exceeding AuM limit

AIFMD small registered AIFM change form

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6ED - AIFMD small registered AIFM change form

EuSEF and EuVECA management and marketing notifications

This annex consists of one or more forms. Forms can be completed online now by visiting <https://www.handbook.fca.org.uk/form>

SUP 15 Annex 6FG - EuSEF and EuVECA management and marketing notifications

**Form H: Form for the notification of disciplinary action relating to
conduct rules staff (other than SMF managers) in SMCR firms**

SUP 15 Annex 7R

Form G: The Retail Investment Adviser Complaints Notifications Form

SUP 15 Annex 8R

**Form NOT002 Payment Account Service rejections or withdrawals
(notification by credit institutions under regulation 105)**

SUP 15 Annex 9D

**Form NOT003 AIS/PIS denial (notification by account servicing payment
service providers under regulation 71)**

SUP 15 Annex 10

Form Notification of major operational or security incidents – PSD2

SUP 15 Annex 11D

Form NOT004 Notification that the fraud rate exceeds the reference fraud rate under SCA-RTS article 20

NOT004 - Notification that the fraud rate exceeds the reference fraud rate under SCA-RTS article 20

| | | |
|-----------|---|--|
| Q1 | <p>Name of service provider</p> <p>FRN</p> <p>Details of the person the FCA should contact in relation to this notification:</p> <p>Title</p> <p>First names</p> <p>Surname</p> <p>Position</p> <p>Phone number</p> <p>Email address</p> | |
| Q2 | <p>Is this a notification that one or more monitored fraud rates for remote electronic card-based payments or remote electronic credit transfers exceeds the applicable reference fraud rate?</p> <p>If this notification is not the first, please provide the reference number received when the original notification was submitted</p> | <p><input type="checkbox"/> Yes Continue to question 2</p> <p><input type="checkbox"/> No If this is a notification that you intend to make use again of the transaction risk analysis exemption, go to question 8</p> |
| Q3 | <p>Notification that the reference fraud rate is exceeded</p> <p>Please confirm that the fraud rates were calculated in accordance with SCA-RTS article 19</p> | <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> |

| | | | | |
|----|---|---|---------------------------------------|------------------------------------|
| Q4 | Please provide the PSP's fraud rate(s), where they exceed the applicable reference fraud rate | EUR 500 EUR 250 EUR 100 | Remote electronic card-based payments | Remote electronic credit transfers |
| Q5 | For how many consecutive quarters has the fraud rate exceeded the applicable reference rate (if more than 1 quarter, please continue to question 6; otherwise, go to question 7)? | EUR 500 EUR 250 EUR 100 | Remote electronic card-based payments | Remote electronic credit transfers |
| Q6 | Please provide the date on which the PSP ceased to apply the transactional risk analysis exemption for the type(s) of transaction which exceeded the applicable reference fraud rate (DD/MM/YYYY) | EUR 500 EUR 250 EUR 100 | Remote electronic card-based payments | Remote electronic credit transfers |
| Q7 | Please provide a description of the measures that the PSP intends to adopt to restore compliance of their monitored fraud rate(s) with the applicable reference fraud rate(s) | max 500 words | | |
| | Notification that you intend to make use again of the transaction risk analysis exemption | | | |
| Q8 | Please provide the PSP's fraud rate(s) from the last quarter that have been restored to compliance with the applicable reference fraud rate. | EUR 500 EUR 250 EUR 100 | Remote electronic card-based payments | Remote electronic credit transfers |
| Q9 | Please confirm that you have provided, alongside this notification, the underlying data and the calculation methodology used in relation to the | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

Q10

fraud rate(s) that
have been re-
stored to compli-
ance with the ap-
plicable reference
fraud rate.

When do you in-
tend to start mak-
ing use again of
the transaction
risk analysis
exemption?

(DD/MM/YYYY)

Form NOT005 Notification that there are problems with a dedicated interface under SCA-RTS article 33(3)

NOT005 - Notification that there are problems with a dedicated interface under SCA-RTS article 33(3)

| | | |
|----|--|---|
| | Name of service provider | |
| | FRN | |
| | Details of the person the FCA should contact in relation to this notification: | |
| | Title | |
| | First names | |
| | Surname | |
| | Position | |
| | Phone number | |
| | Email address | |
| Q1 | In what capacity is the firm notifying? | <input type="checkbox"/> ASPSP <input type="checkbox"/> PISP <input type="checkbox"/> AISP <input type="checkbox"/> CBPII |
| | Details of the problem with the dedicated interface | |
| Q2 | Is this a notification that the dedicated interface does not comply with SCA-RTS article 32? | Yes <input type="checkbox"/> Continue to question 3 No <input type="checkbox"/> If this is a notification of unplanned unavailability or a systems breakdown, go to question 4 |
| Q3 | In what way is the dedicated interface failing to comply with article 32? (select the option which best describes the problem) | <input type="checkbox"/> The uptime of the dedicated interface, as measured by the key performance indicators described in Guidelines 2.2 and 2.4 of the EBA Guidelines on the conditions to be met to benefit from an exemption from contingency measures under article 33(6) of the SCA-RTS, falls below the uptime of the interface used by the ASPSP's payment service users. <input type="checkbox"/> There isn't the same level of support offered to AISPs and PISPs using the ASPSP's dedicated interface, in comparison to the customer interface. <input type="checkbox"/> The dedicated interface poses obstacles to the provision of payment initiation and account information services (see SCA-RTS article 32(3) and the EBA Guidelines and Opinion). <input type="checkbox"/> Other failure to comply with article 32. |

| | | |
|----|---|--|
| Q4 | <p>[Only complete if the answer to question 2 was no]</p> <p>What is the problem in relation to unplanned unavailability or a systems breakdown? (select the option which best describes the problem)</p> | <p><input type="checkbox"/> Unavailability after five consecutive requests of information on the initiation of the payment transaction and all information accessible to the account servicing payment service provider regarding the execution of the payment transaction.</p> <p><input type="checkbox"/> Unavailability after five consecutive requests of information from designated payment accounts and associated payment transactions made available to the payment service user when directly requesting access to the account information excluding sensitive payments data.</p> <p><input type="checkbox"/> Failure to provide to the card based payment instrument issuer (CBPII) or to the PISP a 'yes/no' confirmation in accordance with article 65(3) of PSD2 and article 36(1)(c) of the RTS.</p> <p><input type="checkbox"/> Other unplanned unavailability or systems breakdown.</p> |
| Q5 | <p>Please give a brief description of the failure to comply with article 32 or the unplanned unavailability or systems breakdown. If an ASPSP, please provide the reason(s) for the problem and steps taken to resolve the issue.</p> | <p>Max 500 words</p> |
| Q6 | <p>Time and date when the problem began</p> <p>Has the problem been resolved at the time of submitting this notification?</p> | <p>Yes/ No</p> |