

Chapter 15

Notifications to 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

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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

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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.