



# CUMMINGS PEPPERDINE ON THE APPOINTED REPRESENTATIVE CHANGES DUE ON 8 DECEMBER 2022

What are they and how do I meet them?

## PART 1 – REPORTING INFORMATION TO THE FCA

### 1 INTRODUCTION

Last year we wrote about the changes which the FCA wanted to impose on both appointed representatives (“ARs”) and their principal firms (“Principal”).

The FCA has been busy in the intervening time.

In August they published their policy statement PS22/11, “Improvements to the appointed representatives regime”.

The statement looks back at both the consultation and the responses and sets out the changes which will need to be put in place once the new rules come into force, next month, on 8 December 2022

Most of the reforms deal with two topics:

1. the provision of information about ARs by Principals; and
2. the FCA’s expectations of Principals and their responsibilities.

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In this Cummings Pepperrine Publication, we have set out a summary of the issues covered in these two topics. Our aim is not just to make the issues clear, but also to guide you on how you can meet these new demands.

The requirements in each section are reasonably extensive and so we have produced two publications, one on each topic of the reform.

In this publication, we look at the provision of information about ARs by Principals.

So read on, learn about what you need to do and then call us for any clarifications so that we can work together to keep you compliant.

**Principal.** The self-assessment document must be reviewed and signed-off by the Principal's governing body at least every 12 months and, if requested, the Principal must submit the self-assessment document to its FCA supervisor

## 2. INFORMATION AND NOTIFICATION REQUIREMENTS

The final rules on data and notification requirements for Principals will amend Chapter 12 of the FCA's handbook, the Supervision manual (SUP 12). These will be based on the information found in the table at paragraph 2.81 of PS22/11. For those who like to go directly to the legislation, details are in the Appointed Representatives Instrument 2022 (FCA 2022/32).

Below we have set out the information which Principals will need to report to the FCA, followed by the relevant deadline and how to report. Where you see an \*, this means that the requirements apply to introducer appointed representatives ("IARs") as well.

### 2.1 Explanation of the AR's business model

#### Actions - the Principal must:

- Explain the primary reason for the AR's appointment.

- Provide information on the nature of the regulated activities the Principal permits the AR to carry on. \*
- Indicate whether the AR will conduct any non-regulated activities, and if so, whether these are financial or non-financial. For financial non-regulated activities, indicate what the activity is.
- Indicate whether the AR will provide services to retail clients.
- Indicate whether the AR was previously an AR of a different Principal, and if so, what was the reason for termination of the previous relationship.
- Indicate whether the AR is part of a group and provide the name of the parent undertaking(s) if so.
- Indicate whether any individuals from the AR will be seconded or contracted to the Principal firm to carry on portfolio management and/or dealing activities, and if so, explain the rationale for entering into such an arrangement.
- Provide the estimated revenue from regulated and non-regulated activity in the first year following the appointment (using revenue bands). \*
- Provide information on the nature of the financial arrangements between the Principal and its AR(s). \*

#### Timing - the Principal must:

- Provide for all existing ARs within 60 calendar days of receiving the FCA's section 165 data request.
- Provide 30 calendar days before new appointments.
- Ad hoc reporting of changes to the types of regulated activities an AR will conduct at least 10 calendar days before changes take effect.
- Notify any other changes to the details provided on the AR within 10 business days of the change being made (as per the existing rule).

**Mechanism - the Principal must:**

- For new appointments, submit information using "Add an appointed representative or tied agent form" on Connect.
- For all existing ARs submit data using the data request to be sent via a section 165 request, which will allow for bulk uploads.
- Changes to the details of the ARs to be reported using the "Appointed representative or tied agent change details" form.

## 2.2 Verification of the accuracy of ARs' details

**Actions - the Principal must:**

Verify the accuracy of the details of their ARs (including IARs) on the financial services register on an annual basis, confirm where details remain accurate and report changes to the FCA.\*

**Timing - the Principal must:**

Annually

**Mechanism - the Principal must:**

- Confirm the ARs' details are correct as part of the annual attestation via Connect.
- Updates to AR details to be made using the "Appointed representative or tied agent – change details" form, or the add/terminate AR form if an AR is missing or should have been removed.

## 2.3 Reporting of complaints data

**Actions - the Principal must:**

Submit complaints data for all their ARs (including IARs) on an annual basis. \*

**Timing - the Principal must:**

Submit within 60 business days after the Principal's accounting reference date (ARD).

**Mechanism - the Principal must:**

Use the "On-going reporting by Principal firms on their appointed representatives form" (this is a new form, which will be in Annex 6R to SUP 12).

## 2.4 Reporting of revenue data

**Actions - the Principal must:**

- Annually submit revenue data for each of their ARs (including IARs). \*
- Provide data on revenue from regulated activities and financial non-regulated activities, to be provided to the nearest £5,000. \*
- Provide data on revenue from non-financial non-regulated activities, to be reported in bands. \*

**Timing - the Principal must:**

Submit within 60 business days after the Principal's ARD.

**Mechanism - the Principal must:**

Use the "On-going reporting by Principal firms on their appointed representatives form" (this is a new form, which will be in Annex 6R to SUP 12).

## THE TEAM

Cummings Pepperdine is a leading advisor in crypto. We are one of a select few that advises a large and diverse global client base in the crypto space and the only to provide a complete crypto solution building on the three key areas of law, tax and FCA with legal underpinning at every point.

In law, we have a team of qualified and regulated solicitors and a barrister who retains right of audience.

In tax, we have one of the only crypto tax advisors who is both a qualified solicitor and qualified chartered accountant.

In regulation, our team comprises specialists in crypto compliance monitoring structures and governance oversight who are known to the FCA for the quality of their work.

The team is led by Claire Cummings, a leading solicitor specialising in crypto law and the current and evolving regulation. Claire is on the advisory boards of a crypto exchange and an NFT gaming guild and is also a member of the Global Digital Finance working group on



**Claire Cummings**

stablecoins. Claire has also acted as compliance officer, MLRO and director of an FCA regulated fund manager and qualified under SIB to trade derivatives. As a leading expert in crypto, Claire is a sought after speaker and has published multiple articles on the legal and regulatory issues surrounding cryptocurrencies and the crypto eco-system. Claire is named at the Top 10 influencer in London for hedge funds (2&20, 2022) and is included in the CityWealth Crypto Top 100

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The Cummings Pepperdine Online Training Programme, includes sections focussing on Appointed Representative changes, has been designed by a specialist board of compliance consultants, solicitors, chartered accountants, tax advisors and regulatory consultants. We believe that we are the only firm which offers training created by this range of qualified advisors.

[Click here now to make it all work](#)

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