



Principal Firms

TIME TO ACT!

*Final rules of the FCA's
Appointed Representative regime*

August 2022

Introduction

In December 2021, REG published 'Principal Firms under the Spotlight', where we looked at proposed changes and obligations in the Appointed Representative ('AR') regime. **Our publication specifically focussed on the FCA's anticipated changes and revisions to its legislation on the way Principal Firms oversee their ARs.**

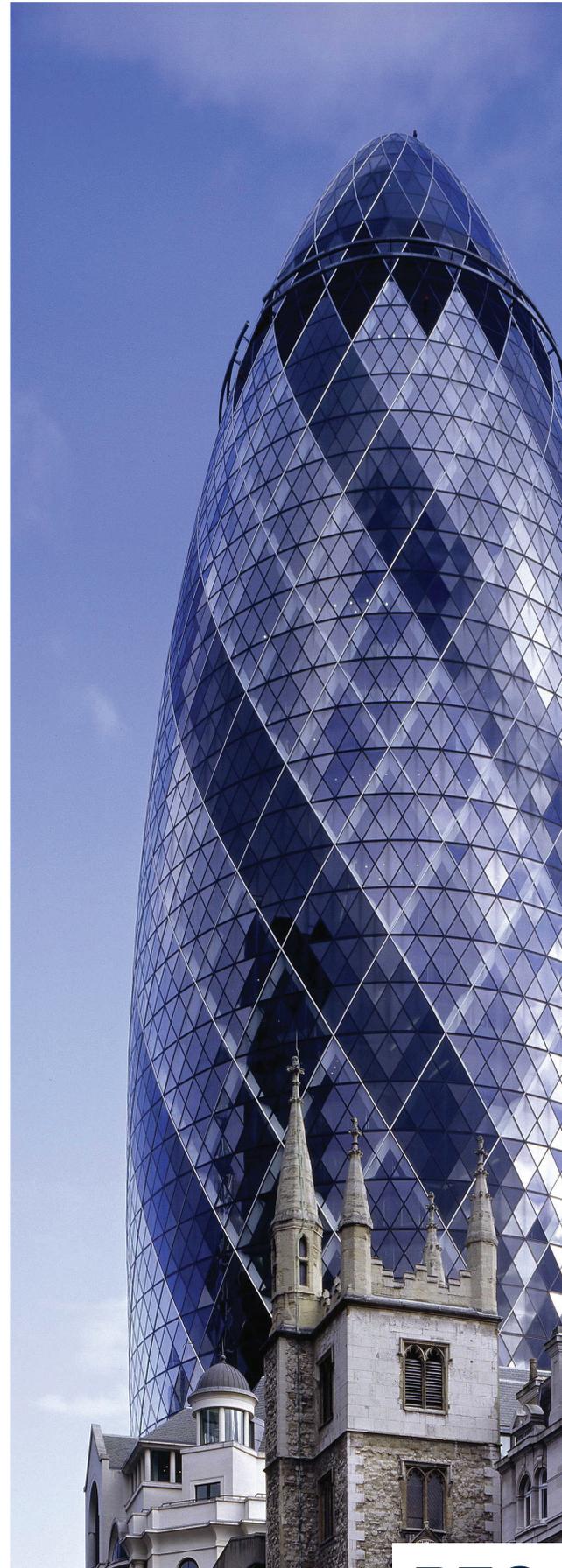
This was due to the FCA noting an increase in the number of complaints raised against activities of ARs. £392.6m FSCS complaints were paid out between 2018-2019 H1 by non-Principal Firms compared to £641m for Principal Firms and their ARs. Moreover, problems with ARs selling unregulated products that had not been approved by their network and without the Principal's knowledge was discovered. A clear demand for a strengthen of security of Principal Firms and their oversight of Appointed Representatives was therefore acknowledged.

In response to these weaknesses and to seek greater ability to challenge Principals on their ability to oversee activities of their ARs, a compulsory survey was issued by the FCA to Principal Firms for Managing Directors/CEOs to complete in October 2021. The survey covered areas such as ARs' activities, revenue, business models, complaints and monitoring. This was sent to around 1,500 Principals and 20,000 ARs (about half the population of Principals and ARs) and set to be completed by December 2021.

There are over 3,500 firms acting as Principals, so this request proved burdensome and required significant undertaking from both Principals and ARs.

What was discovered?

- **ARs are not regulated by the FCA and therefore oversight responsibility falls to the Principal Firm. The research discovered many Principal Firms do not adequately oversee the activities of their ARs.**
- Many Principals claimed they were already obliging to the proposed new rules to effectively oversee their ARs.
- A small number stated that the current AR regime was not fit for purpose and significant harms from Principals and ARs are arising; suggesting the regime should be phased out over time and then removed.
- Some respondents challenged the requirement for information on ARs' non-regulated activities.
- Respondents acknowledged the need to provide the FCA with information on their existing ARs and new appointments; with the consideration of extending the proposed 60 days deadline after new rules are enforced.
- Some respondents requested confirmation the FCA do not expect Principal Firms to have an employee-employer relationship with their AR.
- Some dispute over providing FCA complaints data and revenue information due to this being burdensome and costly.
- An implementation period of at least 12 months was suggested by some respondents.



FCA's New Rules to AR Regime

As per the FCA's publication "Policy Statement" the new rules are henceforth outlined. These will be effective from 8 December 2022 and seek to improve the FCA's AR regime in order to enhance the protection of consumers and markets.

PRINCIPAL FIRMS MUST...

- ✓ Apply enhanced oversight of their ARs, including ensuring they have adequate systems, controls and resources.
- ✓ Provide complaints and revenue information for each AR to the FCA on an annual basis.
- ✓ Notify the FCA of future AR appointments 30 calendar days before it takes effect.
- ✓ Review information on their ARs' activities, business and senior management annually, and be clear on the circumstances of when they should terminate an AR relationship.
- ✓ Assess and monitor the risk that their ARs pose to consumers and markets, providing similar oversight as they would to their own business.

These new rules do not change the fact that Principals are still responsible for the activities of their ARs.

"While appointed representatives can bring innovation and choice, principals and ARs account for more than 60% of the total value of recent claims to the Financial Services Compensation Scheme. They also generate up to 400% more supervisory cases and complaints than other directly authorised firms."

"The changes we're making will help ensure that principals manage their ARs better – ensuring that they provide the oversight needed to avoid consumers being mis-sold or mis-led and to make sure markets can operate safely and fairly. They will also need to provide us better data and information to support our own work."

Sheldon Mills

Executive Director for Consumers and Competition, FCA

Future Changes

As part of the FCA's new three-year strategy, targeted supervision of Principal Firms across the entire financial sector is also being conducted. Furthermore, firms applying for authorisation and appointing ARs will face tighter scrutiny in alignment with the new regime.

The FCA is working with HM Treasury to explore if further changes are needed to the AR Regime, which would require future legislative change.



Who is affected?

These rules are effective from 8th December, giving firms four months to prepare prior to enforcement. If your firm is affected by these changes, necessary steps are needed to be implemented now to avoid non-compliance and carry out oversight accommodatingly.

Principals

- Principal Firms are expected to comply with the new standards from 8th December
- The new rules do not change the fact that Principals are responsible for the activities of their ARs
- Principle firms should also expect to receive a data request for information on their current ARs later in the year
- The enhanced rules will lead to weaker Principal Firms dropping out who cannot meet the expectations and standards of the raised bar. This will positively benefit the remaining Principals
- Easier for Principal Firms to implement relevant proposals
- Reduce duplication and regulatory burden

ARs

- Should be challenging their Principal firm on whether they can meet these new requirements
- Tighter oversight ensures ARs are operating compliantly

Consumers

- These new rules will ensure prevention of consumers being mis-sold or mis-led by ARs
- Increased consumer confidence from better dealings with Principals and ARs

Markets

- Market stability due to the continuous wide range of products and service offerings across the sector from Principals and ARs

What happens if I don't comply?

All regulated firms must comply to FCA rules as set out in the FCA Handbook.

Non-compliance means you are failing to abide to legal requirements as set out by the FCA's regulations. This act of market abuse will lead to an issuing of fines against Principal Firms who have breached the new FCA rules. The enforcement powers of the FCA include the right to impose a penalty on a firms or person and make a public statement. Disciplinary action and investigation into your business is probable, with the further likelihood criminal proceedings could take place, dependent on the severity of the Principal Firm's non-cooperation.



How REG can help

At REG we are committed to ensuring the insurance sector operates faster, smarter and safer. We provide intelligent subscription software to deliver complete oversight of all your counterparts, including ARs. Our software accelerates onboarding processes, and trade and allows you to digitally request compliance data from third parties. Our Network continually monitors key diligence information, alerting users to changes in risk profile.

Automation of routine monitoring is vital for Principal Firms to adhere to the FCA's revised AR regime and ensure a compliant portfolio of Appointed Representatives is maintained, with any sudden changes identified instantly.



Automated, ongoing monitoring of credit, legal and AML risks



Realtime dashboard



Daily legal, commercial and financial checks



Task management and workflow tools



24/7 real time alerts straight to your inbox



Seamless onboarding



Adverse media screening



Secure digital document exchange facility



Access business intelligence data on 365m businesses worldwide

For more information visit www.reg.uk.com

Or to see how REG can help you comply to the FCA's obligations;

Book a demo with our Sales Experts today