

1 March 2022

Dear Sir/Madam,

SBPP RESPONSE TO CP21/34: IMPROVING THE APPOINTED REPRESENTATIVES (AR) REGIME

The Panel is pleased to respond to this consultation. We have one over-arching point, which applies not only to this consultation but to others (in particular the work on the new consumer duty) that consideration should be given to the timing of the implementation due to the abundance of regulatory change being delivered over a relatively short timeframe. Smaller firms in particular are facing a barrage of regulatory change at a time when they may be struggling to find the resources to implement and consideration of a phased approach would be welcome.

On the specific points raised in the consultation:

- The proposed change to the FCA Register is welcome as it allows clients to validate the scope of the activity permitted by the principal and help prevent deliberate deception by an AR.
- The proposal for prior notice of intention to appoint should be considered as it may extend the time to appoint an AR, which may have the unintended consequence of leaving a firm in regulatory limbo impacting on cash flow and ability to support existing clients.
- As the AR/IAR structures are very varied there need to be examples of good and poor practice and the FCA could consider publishing non-handbook guidance to help adoption, as was done previously in FG21/3 in respect of Defined Benefit business.
- An AR/Principal will be required to provide a significant amount of data in relation to both regulated and non-regulated business and small businesses will not necessarily have sophisticated enough systems to provide this information. As this is a huge amount of data the Panel challenges how will this be used to by the FCA to direct its supervisory activity better, especially given these are ARs and the non-regulated income could come from a wide variety of sources.
- Consideration should also be given to the fact that the principals have neither an employee/employer relationship nor a contractual relationship with all financial services staff working at the AR and therefore taking action with any staff member working in connection with a regulatory activity is open to interpretation. The practicalities of this would need to be explored to ensure there are no unintended consequences (e.g. re IR35 status) and that it is a workable approach.

We would be happy to discuss any of these points further.

Yours sincerely,

[Signed]

Marlene Shiels
Chair, FCA Smaller Business Practitioner Panel