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Dear CEO

FCA expectations of principal firms operating in the general insurance sector

On the 22 July 2016 we published the results of our thematic review into the supervision by principal firms of their appointed representatives in the general insurance sector¹. The report sets out our findings and the actions we expect firms to take to ensure that they meet their responsibilities as principals for their appointed representatives. Our review uncovered widespread shortcomings in principal firms' awareness and understanding of our rules and guidance and compliance with the requirements. This creates significant concern of material risks to consumers arising from the activities of appointed representatives operating in the general insurance sector.

Our review found that:

- When considering the appointment of appointed representatives, many principal firms had not taken reasonable steps to assess their ability to oversee them effectively or put in place appropriate risk management frameworks to identify and manage the risks arising. This resulted in some appointed representatives conducting activities outside their principal's core areas of expertise where the principal lacked the ability or resources to oversee them effectively.
- Some principals had not assessed the solvency and suitability of their appointed representatives.
- Some principals had not put in place compliant contracts with their appointed representatives, which clearly set out what activities the appointed representatives were allowed to undertake.
- Many principals had not put in place appropriate control frameworks for the ongoing monitoring of their appointed representatives and to enforce compliance with relevant regulatory requirements. This was particularly relevant in relation to sales activities and treating customers fairly, where we saw numerous examples of poor practices and mis-selling.

¹ <http://www.fca.org.uk/your-fca/documents/thematic-reviews/tr16-06>

To improve awareness, I am writing today to all principal firms operating in the general insurance sector. Given our significant concerns, we expect you to share this letter with your Board or equivalent, as we will consider these matters in any interactions with your firm.

Responsibility of a firm for its appointed representatives

Our Handbook sets out the rules and guidance relating to appointed representatives and the continuing obligations of the principal firm. The main purpose of our rules and guidance is to place responsibility on the principal firm for seeking to ensure that its appointed representatives are fit and proper to deal with clients in its name, and to ensure that clients dealing with its appointed representatives are afforded the same level of protection as if they had dealt with the principal firm itself².

We place responsibility on the principal firm for the activities carried out by its appointed representative because an appointed representative is an exempt person carrying out regulated activities. The underlying legislation makes clear that: "The principal of an appointed representative is responsible, to the same extent as if the principal had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which the principal has accepted responsibility." ³

We treat an act or omission of the appointed representative, in respect of the business for which the principal has accepted responsibility, as the act or omission of the principal itself⁴. Regardless of the supplementary commercial arrangements that may exist between the principal firm and the appointed representative, the principal has full responsibility (including for any liabilities that might arise) for ensuring that the appointed representative complies with our rules: a breach by the appointed representative is a breach by the principal firm. By way of example, where we identify examples of mis-selling within an appointed representative, it is the principal firm that we will contact in the course of any regulatory intervention. The principal will also be responsible from a regulatory perspective for resolving any issues identified and ensuring that any customers who have suffered detriment receive appropriate redress. It would then be a matter for the principal firm whether to look to its contractual arrangements with the appointed representative to make any appropriate recovery.

We expect you to be aware of and to meet your obligations, and to comply with the rules set out in the Handbook, particularly Chapter 12 of the Supervision Manual (SUP), Principles for Businesses (PRIN), Senior Management Arrangements, Systems and Controls (SYSC), Threshold Conditions (COND), Insurance: Conducts of Business Sourcebook (ICOBS) and Client money: Insurance mediation activity (CASS 5). There is further guidance on our expectations of principal firms and appointed representatives both generally, and specifically in relation to insurance intermediaries, contained on our website. ^{5,6}

² SUP12.1.3G

³ Section 39 (3) and 39 (4) of the Financial Services & Market Act 2000;

⁴ Sup 12.3.1G and SUP 12.3.2G

⁵ <https://shar.es/1Jp7AQ> - Appointed representatives and networks

⁶ <https://shar.es/1Jpu00> - Appointed representatives and principals

Action required

We expect you to consider the contents of the thematic report, and assess whether you can demonstrate how you are meeting our requirements in relation to your appointed representatives, as set out in our Handbook. You should ensure that you identify and address any shortcomings in your firm's risk management frameworks, processes and practices in relation to meeting your responsibilities and obligations for your appointed representatives.

Yours sincerely

A handwritten signature in black ink, appearing to read "Simon Green". The signature is fluid and cursive, with a small dot at the end of the line.

Simon Green
Director, General Insurance & Protection
Supervision Division