

Direction: Modification by consent

Date: [date of application]

Handbook Version as in force at the date of this Direction

Power

1. This direction is given by the *FCA* under section 138A of the *Act*.

Duration

2.
 - (1) This direction takes effect on [date of application].
 - (2) This direction ends on 30 April 2021.

Rule modified

3. The *FCA* directs that the *rule* listed below applies to the firm with the modifications shown.
4. In the table below, underlining indicates the insertion of new text and striking through indicates deleted text.

Rule	Modification
SUP 10A.5.6R	<p>If:</p> <ol style="list-style-type: none"> (1) a <i>firm</i> appoints an individual to perform a function which, but for this <i>rule</i>, would be an <i>FCA-significant-influence function</i>; (2) the appointment is to provide cover for an <i>approved person</i> whose absence is: <ol style="list-style-type: none"> (a) temporary; or (b) reasonably unforeseen; and (3) the appointment is for less than: <ol style="list-style-type: none"> (a) <u>12 weeks; or</u> (b) <u>(subject to (4) and (5)) thirty six weeks;</u>

	<p>in a consecutive 12-month period;</p> <p>the description of the relevant <i>FCA-significant-influence function</i> does not relate to those activities of that individual.</p> <p><u>(3)(b) only applies if the following conditions are met:</u></p> <p><u>(4) it would be impracticable for the <i>firm</i> or the <i>appointed representative</i> concerned to comply with the obligations that would otherwise apply if the <i>firm</i> or the <i>appointed representative</i> concerned replaced the <i>approved person</i> who is absent as described in (2) (such as the requirement to obtain approval under section 59 of the Act in relation to the replacement); and</u></p> <p><u>(5) the cause of that impracticability or its main cause is the Covid-19 pandemic.</u></p>
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Interpretation and guidance: general

5. Interpretative provisions (including definitions) of the *Handbook* apply to this direction in the same way they apply to the *Handbook*.
6. Any reference in the *Handbook* to a *rule* modified by this direction should be read as taking into account the modifications made to that *rule* by this direction.
7. SUP 10A.5.6R as modified by this direction provides a single period of up to thirty six weeks in which an unapproved individual may stand in for an absent *approved person* rather than one period of twelve weeks plus another of thirty six weeks.
8. If an individual has been standing in for an absent *approved person* for a period of between 12 and 36 weeks under the version of SUP 10A.5.6R modified by this direction at the time this direction expires, the twelve week period provided by SUP 10A.5.6R is treated as exhausted and the individual should give up the role at once unless they have already been approved as an *approved person*.
9. *Firms* taking advantage of this direction are reminded of the FCA's expectations about internal record keeping in its statement titled "The Approved Persons Regime (APR) and coronavirus (Covid-19): our expectations" published on [] 2020.

Interpretation and guidance: appointed representatives

10. This direction will continue to have effect in relation to *appointed representatives* after the changes made to SUP 10A.5.6R by the Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020 come into effect on 7 December 2020.

Interpretation and guidance: benchmark administrators

11. Paragraphs 11 to 14 below apply to a *firm* that has permission to carry on the *regulated activity of administering a benchmark* but no other *regulated activity*.
12. This direction ceases to have effect in relation to a *firm* on 7 December 2020. At that date the *firm* will become an *SMCR firm* and *SUP 10A* will cease to apply to it.
13. A *firm* may wish to note *SUP TP 11A.18.1G*, which deals with the interaction of *SUP 10C.3.13R* (the equivalent of *SUP 10A.5.6R* for *SMCR firms*) and *SUP 10A.5.6R*. The effect of what it says is that if:
 - (a) a *firm* appoints someone (P) to fill in for an absent *approved person* under *SUP 10A.5.6R* as modified by this direction;
 - (b) that *approved person* is still absent on 7 December 2020;the *firm* may keep P in place for:
 - (c) a further 12 weeks under *SUP 10C.3.13R*; or
 - (d) (subject to paragraph 14 below) a further 36 weeks under *SUP 10C.3.13R* as modified by the modification by consent of *SUP 10C.3.13R* currently available to *SMCR firms*, if the *firm* qualifies for that modification.
14. A *firm* should note that the *FCA* may decide not to make the modification by consent of *SUP 10C.3.13R* referred to in paragraph 13 above available to benchmark firms or to make available a different modification by consent of that *rule*.

Waivers Team
Authorisations Division