

Chapter 28

Insurance distribution: specific knowledge, ability and good repute requirements

28.1 Minimum knowledge, ability and good repute requirements for carrying out insurance distribution activities

Application

- 28.1.1 **R** (1) This chapter applies to a *firm* with *Part 4A permission* to carry on *insurance distribution activities*.
- (2) ■ SYSC 28.2 (except ■ SYSC 28.2.1R(1)) does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities*.
- 28.1.2 **R** In this chapter, relevant employees are employees or other *persons*:
- (1) directly involved in the carrying on of the *firm's insurance distribution activities*; or
- (2) within the management structure responsible for the *firm's insurance distribution activities*; or
- (3) responsible for the supervision of a relevant employee acting in the capacity as set out in (1).
- [**Note:** article 10(1) and the fifth paragraph of article 10(2) of the *IDD*]
- 28.1.3 **R** In this chapter 'employee':
- (1) is not restricted to an individual working under a contract of employment; and
- (2) includes (without limitation) any natural or legal person whose services are placed at the disposal of the *firm*, under an arrangement between the *firm* and a third party; and
- (3) also includes *appointed representatives* and their employees.
- 28.1.4 **G** Rules specified in sections ■ SYSC 28.2 (knowledge and ability), ■ SYSC 28.4 (record-keeping) and ■ SYSC 28.5 (other requirements to consider) relate to the requirements in:
- SYSC 3.1.6R;

- SYSC 5.1.1R;
 - SYSC 3.2.20R, ■ SYSC 9.1.1R and ■ SYSC 9.1.1AR;
 - TC 4.2 (Specified requirements for firms carrying on insurance distribution activities); and
- article 22 of the *AIFMD level 2 regulation*.

28.2 Knowledge and ability requirements

Knowledge and ability requirements

28.2.1

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- (1) A *firm* must ensure that it and each relevant employee possesses appropriate knowledge and ability in order to complete their tasks and perform their duties adequately.
- (2) A *firm* must ensure that it and each relevant employee complies with continued professional training and development requirements in order to maintain an adequate level of performance corresponding to the role they perform and the relevant market.
- (3) A *firm* must ensure that each relevant employee completes a minimum of 15 hours of professional training or development in each 12 *month* period.
- (4) For the purposes of (3), a *firm* must take into account the:
 - (a) role and activity carried out by the relevant employee within the *firm*; and
 - (b) type of distribution and the nature of the products sold.

[**Note:** article 10(1) and the first, second and fourth paragraphs of article 10(2) of the *IDD*]

28.2.2

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Training and development can encompass various types of facilitated learning opportunities including courses, e-learning and mentoring. [**Note:** recital 29 to the *IDD*]

28.2.3

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A *firm* must, including in relation to the relevant employee, demonstrate compliance with the following professional knowledge and competence requirements:

- (1) for *general insurance contracts*:
 - (a) minimum necessary knowledge of terms and conditions of policies offered, including ancillary risks covered by such policies;
 - (b) minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law, relevant tax law and relevant social and labour law;
 - (c) minimum necessary knowledge of claims handling;
 - (d) minimum necessary knowledge of complaints handling;

- (e) minimum necessary knowledge of assessing customer needs;
 - (f) minimum necessary knowledge of the insurance market;
 - (g) minimum necessary knowledge of business ethics standards; and
 - (h) minimum necessary financial competence;
- (2) for *insurance-based investment products*:
- (a) minimum necessary knowledge of insurance-based investment products, including terms and conditions and net premiums and, where applicable, guaranteed and non-guaranteed benefits;
 - (b) minimum necessary knowledge of advantages and disadvantages of different investment options for policyholders;
 - (c) minimum necessary knowledge of financial risks borne by policyholders;
 - (d) minimum necessary knowledge of policies covering life risks and other savings products;
 - (e) minimum necessary knowledge of organisation and benefits guaranteed by the pension system;
 - (f) minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law and relevant tax law;
 - (g) minimum necessary knowledge of the insurance market and the saving products market;
 - (h) minimum necessary knowledge of complaints handling;
 - (i) minimum necessary knowledge of assessing customer needs;
 - (j) conflict of interest management;
 - (k) minimum necessary knowledge of business ethics standards; and
 - (l) minimum necessary financial competence; and
- (3) for *long-term insurance contracts*:
- (a) minimum necessary knowledge of policies including the terms, conditions, the guaranteed benefits and, where applicable, ancillary risks;
 - (b) minimum necessary knowledge of organisation and benefits guaranteed by the pension system of the relevant state;
 - (c) knowledge of applicable insurance contract law, consumer protection law, data protection law, anti-money laundering law and, where applicable, relevant tax law and relevant social and labour law;
 - (d) minimum necessary knowledge of insurance and other relevant financial services markets;
 - (e) minimum necessary knowledge of complaints handling;
 - (f) minimum necessary knowledge of assessing consumer needs;
 - (g) conflict of interest management;
 - (h) minimum necessary knowledge of business ethics standards; and
 - (i) minimum necessary financial competence.

[Note: article 10(2) last paragraph and annex I of the *IDD*]



28.3 Good repute

Good repute requirements

- 28.3.-1** **R** This section does not apply to a *connected travel insurance intermediary*.
- 28.3.1** **R** A *firm* must ensure that all the *persons* in its management structure and any staff directly involved in *insurance distribution activities* are of good repute.**[Note:** article 10(3) paragraphs 1 to 3 of the *IDD*]
- 28.3.2** **G** This includes but is not limited to those natural persons:

 - (1) that are directly involved in *insurance distribution activities*; or
 - (2) within the management structure responsible for *insurance distribution activities*; or
 - (3) within the management structure responsible for any staff directly involved in *insurance distribution activities*.

[Note: article 10(3) paragraphs 1 and 3 of the *IDD*]
- 28.3.3** **R** An *IDD ancillary insurance intermediary* must ensure that natural persons working in the *firm*, responsible for *ancillary insurance distribution activities*, are of good repute.

[Note: article 10(3) paragraph 4 of the *IDD*]
- 28.3.4** **R** In considering a *person's* repute the firm must at a minimum ensure that the *person*:

 - (1) has a clean criminal record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities; and
 - (2) has not previously been declared bankrupt,

unless they have been rehabilitated in accordance with national law.

[Note: article 10(3) paragraph 1 of the *IDD*]
- 28.3.5** **G**

 - (1) In the *United Kingdom* the following *persons* will be considered to have been rehabilitated:

- (a) in relation to a serious criminal offence, where the conviction is considered 'spent' under the Rehabilitation of Offenders Act 1974;
 - (b) in relation to bankruptcy, where the bankruptcy has been discharged.
- (2) References to "serious criminal offences" are not restricted to offences considered to have been committed in or under the law of the *United Kingdom*.
- (3) A *firm* should give particular consideration to offences of dishonesty, fraud, financial crime or other offences under legislation relating to banking and financial services, companies, insurance and consumer protection.

28.3.6

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A *firm's* systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it (see ■ SYSC 3.2.13G and ■ SYSC 5.1.2G). This includes, among other things, the assessment of an individual's honesty.



28.4 Record-keeping requirements

Record-keeping requirements

28.4.1

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A firm must:

- (1) establish, maintain and keep appropriate records to demonstrate compliance with this chapter; and
- (2) be in a position to provide to the *FCA*, on request, the name of the person responsible for the record-keeping requirement in (1).

[Note: article 10(8) last paragraph of the *IDD*]

28.4.2

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A firm must:

- (1) make an up-to-date record of the continued professional training or development completed by each relevant employee in each 12 month period;
- (2) retain that record for not less than 3 years after the relevant employee stops carrying on the activity; and
- (3) be in a position to provide any version of the record to the *FCA* on request.

[Note: article 10(2) second paragraph of the *IDD*]

28.4.3

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A firm must not prevent a relevant employee from obtaining a copy of the records relating to that relevant employee which are maintained by the firm for the purposes of ■ SYSC 28.4.1R and ■ SYSC 28.4.2R.

28.5 Other requirements to consider

28.5.1

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In addition to the requirements in ■ SYSC 28:

- (1) *firms* may have to take into account and comply with the requirements in the Training and Competence sourcebook (TC);
- (2) article 22 of the *AIFMD level 2 regulation* and the *competent employees rules* (■ SYSC 3.1.6R and ■ SYSC 5.1.1R) set out a high-level competence requirement which every *firm* has to comply with; and
- (3) it may be that the effect of the *rules* referred to in (1) and (2) is that *firms* have to meet requirements additional to those in ■ SYSC 28.