

Chapter 1

Application and Purpose

1.1 Who, what and where?

Who and what?

1.1.1 **R** This sourcebook applies to a *firm* where its *employee* carries on an activity in ■ TC App 1 for *retail clients, customers or consumers* (subject to the limitations set out in ■ TC App 3).

1.1.1A **R** The application of this sourcebook is modified for:

(1) a *MiFID investment firm* and a *third country investment firm* by the provisions in ■ TC 4.1 where its *employee* carries on an activity in ■ TC App 1 which is also an activity in ■ TC 4.1.2R; and

(2) a *firm* carrying on *insurance distribution activities* by the provisions in TC 4.2.

1.1.1B **G** ESMA has issued guidelines specifying criteria for the assessment of knowledge and competence (3 January 2017 ESMA71-1154262120-153 EN (rev)).

Where?

1.1.2 **R** The territorial scope of this sourcebook is set out in ■ TC App 2.

Purpose

1.1.3 **G** The *competent employees rule* is the main requirement relating to the competence of *employees*. The purpose of this sourcebook is to support the FCA's supervisory function by supplementing the *competent employees rule* for retail activities.

Meaning of competence

1.1.4 **G** In this sourcebook, competence means having the skills, knowledge and expertise needed to discharge the responsibilities of an *employee's* role. This includes achieving a good standard of ethical behaviour.

1.2 Actions for damages

1.2.1

R

A contravention of the *rules* in *TC* does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those rules is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

