Powers exercised

A. The Financial Services Authority makes this instrument in the exercise of:

   (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

      (a) section 138 (General rule-making power);
      (b) section 149 (Evidential provisions);
      (c) section 150(2) (Actions for damages);
      (d) section 156 (General supplementary powers); and
      (e) section 157(1) (Guidance); and

   (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.

B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 November 2007.

Amendments to the Handbook

D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
</tr>
<tr>
<td>Senior Management Arrangements, Systems and Controls sourcebook (SYSC)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Prudential sourcebook for Mortgage, Home Finance Firms and Insurance Intermediaries (MIPRU)</td>
<td>Annex C</td>
</tr>
<tr>
<td>Insurance: Conduct of Business sourcebook (ICOB)</td>
<td>Annex D</td>
</tr>
<tr>
<td>Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)</td>
<td>Annex E</td>
</tr>
<tr>
<td>Training and Competence sourcebook (TC)</td>
<td>Annex F</td>
</tr>
<tr>
<td>Supervision manual (SUP)</td>
<td>Annex G</td>
</tr>
<tr>
<td>Electronic Money sourcebook (ELM)</td>
<td>Annex H</td>
</tr>
<tr>
<td>Professional Firms sourcebook (PROF)</td>
<td>Annex I</td>
</tr>
</tbody>
</table>
Citation

E. This instrument may be cited as the Training and Competence Sourcebook (Amendment No 7) Instrument 2007.

By order of the Board
26 July 2007
Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

**competent employees rule**

(a) for a *firm* which is not a *common platform firm*, SYSC 3.1.6R.

(b) for a *common platform firm*, SYSC 5.1.1R.

**pension transfer specialist**

an individual appointed by a *firm* to check the suitability of a *pension transfer* or *pension opt-out* who has passed the required examinations as specified in the interim approved examination annexes to TC-2.
3.1.6 R A firm which is not a common platform firm must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.

3.1.7 R When complying with the competent employees rule, a firm must take into account the nature, scale and complexity of its business and the nature and range of financial services and activities undertaken in the course of that business.

3.1.8 G The Training and Competence sourcebook (TC) contains additional rules and guidance relating to specified retail activities undertaken by a firm.

3.1.9 G Firms which are carrying on activities that are not subject to TC may nevertheless wish to take TC into account in complying with the training and competence requirements in SYSC.

3.1.10 G If a firm requires employees who are not subject to an examination requirement to pass a relevant examination from the list of recommended examinations maintained by the Financial Services Skills Council, the FSA will take that into account when assessing whether the firm has ensured that the employee satisfies the knowledge component of the competent employees rule.

5.1.4 G The FSA’s requirements on firms with respect to the competence of individuals are in the Training and Competence sourcebook (TC). The Training and Competence sourcebook (TC) contains additional rules and guidance relating to specified retail activities undertaken by a firm.

5.1.4A G Firms which are carrying on activities that are not subject to TC may nevertheless wish to take TC into account in complying with the training and
competence requirements in SYSC.

5.1.5A G  If a firm requires employees who are not subject to an examination requirement in TC to pass a relevant examination from the list of recommended examinations maintained by the Financial Services Skills Council, the FSA will take that into account when assessing whether the firm has ensured that the employee satisfies the knowledge component of the competent employees rule.
Annex C

Amendments to the Prudential sourcebook for Mortgage, Home Finance Firms and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.3.2 R In determining a person’s knowledge and ability, the firm should have regard to matters including, but not limited to, whether the person:

(1) has demonstrated by experience and training to be that he is able, or that he will be able, to perform his duties related to the firm’s insurance mediation activity; and

(2) satisfies the relevant requirements of the FSA’s Training and Competence sourcebook and the Senior Management Arrangements, Systems and Controls sourcebook.

...

2.3.5 G Firms are reminded that Principle 3 requires firms to take reasonable care to organise and control their affairs responsibly and effectively. Principle 3 is amplified by the rule which requires firms to take reasonable care to establish and maintain such systems and controls as are appropriate to its business (SYSC 3.1.1R). A firm’s systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it (SYSC 3.2.13G). This includes the assessment of an individual's honesty and competence. In addition, the competent employees rule (SYSC 3.1.6R) sets out a high-level competence requirement which every firm should follow. Training and Competence sourcebook lists some general, high-level commitments to training and competence which every firm should make and fulfil.
Annex D

Amendments to the Insurance: Conduct of Business sourcebook (ICOB)

In this Annex, underlining indicates new text and striking through indicates deleted text.

ICOB: 1 Application and Purpose

Annex 2 G

Summary of Handbook Provisions for Insurance Intermediaries

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>This table belongs to <em>ICOB</em> 1.5.1 G. 1</td>
</tr>
</tbody>
</table>
| 2 | This table sets out the provisions in the *Handbook* that apply to *firms* which are *insurance intermediaries* where they:
|   | (1) carry on *insurance mediation activities* in relation to a *non-investment insurance contract*; or |
|   | (2) *communicate or approve a non-investment financial promotion.* |
| 3 | It also sets out the provisions in the *Handbook* that apply to *approved persons* |
| 4 | For convenience, the former activity is referred to in the table as (1) and the latter as (2). |

**Module** | **Application**
---|---
... | ...
Training and Competence sourcebook, *TC* | *TC* 1 applies when a firm is doing (1) or (2).
| *TC* 2 applies only in circumstances where an *insurance intermediary* has employees advising on *non-investment insurance contracts* with or for a *retail customer* as listed in *TC Appendix 1 R TC 2.1.4 R.*
... | ...

7.3.4 G An *insurer* should refer to the *guidance* set out in on *TC* 1 (Commitments) the *competent employees rule* in *SYSC 3* in respect of the competence of any *person* who carries out *claims handling* on its behalf.
Annex E

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

In this Annex, underlining indicates new text and striking through indicates deleted text.

8.6.3 G Firms are reminded that the Training and Competence sourcebook sets out requirements for:

(1) *employees* designing scripted questions for use with *customers* in *non-advised* sales to *customers* of *equity release transactions* which *do not involve* personal recommendations; and

(2) *employees* overseeing on a day-to-day basis the *non-advised* sales to *customers* of *equity release transactions* which *do not involve* personal recommendations.
Annex F

Amendments to the Training and Competence sourcebook (TC)

The Training and Competence sourcebook is deleted in its entirety and replaced with the following. The text is not underlined.

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 Appendix 1 for retail clients, customers or consumers (subject to the limitations set out in TC Appendix 3).

Where?

1.1.2 R The territorial scope of this sourcebook is set out in TC Appendix 2.

Purpose

1.1.3 G The competent employees rule is the main Handbook requirement relating to the competence of employees. The purpose of this sourcebook is to support the FSA’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 150 of the Act (and each of those rules is specified under section 150(2) of the Act as a provision giving rise to no such right of action).

2 Competence

2.1 Assessing and maintaining competence

Assessment of competence and supervision
2.1.1 R A firm must not assess an employee as competent to carry on an activity in TC Appendix 1 until the employee has demonstrated the necessary competence to do so and has (if required by TC Appendix 1) passed each module of an appropriate examination. This assessment need not take place before the employee starts to carry on the activity.

2.1.2 R A firm must not allow an employee to carry on an activity in TC Appendix 1 without appropriate supervision.

2.1.3 G Firms should ensure that employees are appropriately supervised at all times. It is expected that the level and intensity of that supervision will be significantly greater in the period before the firm has assessed the employee as competent, than after. A firm should therefore have clear criteria and procedures relating to the specific point at which the employee is assessed as competent in order to be able to demonstrate when and why a reduced level of supervision may be considered appropriate. At all stages firms should consider the level of relevant experience of an employee when determining the level of supervision required.

Supervisors

2.1.4 G Firms should ensure that those supervising employees carrying on an activity in TC Appendix 1 have the necessary coaching and assessment skills as well as technical knowledge to act as a competent supervisor and assessor. In particular firms should consider whether it is appropriate to require those supervising employees not assessed as competent to pass an appropriate examination as well except where the employee is giving advice on packaged products, see TC 2.1.5R.

2.1.5 R Where an employee is giving advice on packaged products to retail clients and has not been assessed as competent to do so, the firm must ensure that the individual supervising and assessing that employee has passed an appropriate examination.

Examination requirements before starting activities

2.1.6 R A firm must ensure that an employee does not carry on an activity in TC Appendix 1 (other than an overseeing activity) for which there is an examination requirement without first passing the relevant regulatory module of an appropriate examination.

2.1.7 R A firm must ensure that an employee does not carry on any of the following activities without first passing each module of an appropriate examination:

(1) “advising and dealing” activities in TC Appendix 1;
(2) the activity of a broker fund adviser;
(3) advising on syndicate participation at Lloyd’s; or
(4) the activity of a pension transfer specialist.
2.1.8 G Where there is an examination requirement, firms may wish to impose limits on the time they allow their employees to pass an appropriate examination or place limits on the number of times the examination can be taken.

Exemption from appropriate examination requirements

2.1.9 R (1) If a firm is satisfied that an employee meets the conditions in this rule then the requirements to have passed each module of an appropriate examination will only apply if that employee is carrying on one of the activities specified in this rule.

(2) The conditions are that a firm should be satisfied that an employee:

(a) has at least three years’ up-to-date relevant experience in the activity in question obtained while employed outside the United Kingdom;

(b) has not previously been required to comply fully with the relevant examination requirements in TC 2.1.1R; and

(c) has passed the relevant regulatory module of an appropriate examination;

but (b) and (c) do not apply to an employee who is benefiting from the “30-day rule” exemption in SUP 10.10.7BR, unless the employee benefits from that rule because he is advising retail clients on packaged products or is a broker fund adviser.

(3) The relevant activities are:

(a) advising on investments which are packaged products, if that advice is given to retail clients;

(b) the activity of a broker fund adviser;

(c) advising on syndicate participation at Lloyd’s; or

(d) the activity of a pension transfer specialist.

Selecting an appropriate examination

2.1.10 E (1) This rule applies for the purposes of TC 2.1.1R, TC 2.1.5R, TC 2.1.6R, TC 2.1.7R and TC 2.1.9R.

(2) In ensuring that an examination is appropriate, a firm should select an appropriate examination from the list of examinations maintained by The Financial Services Skills Council.

(3) Compliance with (2) may be relied on as tending to establish compliance with the rules referred to in (1).
2.1.11 Training needs

Firms should ensure that their employees’ training needs are assessed at the outset and at regular intervals (including if their role changes). Appropriate training and support should be provided to ensure that any relevant training needs are satisfied. Firms should also review at regular intervals the quality and effectiveness of such training.

Maintaining competence

2.1.12 R A firm must review on a regular and frequent basis employees’ competence and take appropriate action to ensure that they remain competent for their role.

2.1.13 G A firm should ensure that maintaining competence for an employee takes into account such matters as:

(1) technical knowledge and its application;

(2) skills and expertise; and

(3) changes in the market and to products, legislation and regulation.

3 Record Keeping

3.1 Record-keeping requirements

3.1.1 R A firm must make appropriate records to demonstrate compliance with the rules in this sourcebook and keep them for the following periods after an employee stops carrying on the activity:

(1) at least 5 years for MiFID business;

(2) 3 years for non-MiFID business; and

(3) indefinitely for a pension transfer specialist.
### Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3

<table>
<thead>
<tr>
<th>Activity</th>
<th>Products/Sectors</th>
<th>Is there an appropriate examination requirement?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Providing basic advice</strong></td>
<td>1. Stakeholder products excluding a deposit-based stakeholder product</td>
<td>No</td>
</tr>
<tr>
<td><strong>Advising</strong></td>
<td>2. Securities which are not stakeholder pension schemes or broker funds</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>3. Derivatives</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Packaged products which are not broker funds</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Friendly Society life policies where the employee is not reasonably expected to receive a remuneration of greater than £1000 a year in respect of such sales</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Friendly Society tax-exempt policies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>7. Long-term care insurance contracts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>8. Investments in the course of corporate finance business</td>
<td></td>
</tr>
<tr>
<td></td>
<td>9. Advising on syndicate participation at Lloyd’s</td>
<td></td>
</tr>
<tr>
<td><strong>Undertaking the activity in column 2</strong></td>
<td>10. Broker fund adviser</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>11. Pension transfer specialist</td>
<td></td>
</tr>
<tr>
<td><strong>Advising and dealing</strong></td>
<td>12. Securities which are not stakeholder pension schemes or broker funds</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>13. Derivatives</td>
<td></td>
</tr>
<tr>
<td><strong>Managing</strong></td>
<td>14. Investments</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Overseeing on a day-to-day basis</strong></td>
<td>15. Operating a collective investment scheme or undertaking the activities of a trustee or depositary of a collective investment scheme</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>16. Safeguarding and administering investments or holding client money</td>
<td></td>
</tr>
<tr>
<td></td>
<td>17. Administrative functions in relation to managing investments</td>
<td></td>
</tr>
<tr>
<td></td>
<td>18. Administrative functions in relation to effecting or carrying out contracts of insurance, which are life policies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>19. Administrative functions in relation to the operation of stakeholder pension schemes</td>
<td></td>
</tr>
<tr>
<td>Regulated mortgage activity and reversion activity carried on for a customer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>Advising</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. Regulated mortgage contracts for a non-business purpose</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>21. Equity release transactions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Designing scripted questions for non-advised sales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22. Equity release transactions</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Overseeing non-advised sales on a day-to-day basis</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23. Equity release transactions</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Non-investment insurance business carried on for a consumer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advising</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24. Non-investment insurance contracts</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

1. In the Appendix the heading and types of business specified in the headings are to be read in conjunction with the paragraphs appearing beneath them.
2. Thus, for example, paragraph 24, under the final heading, refers only to advice on non-investment insurance contracts given to a consumer.
<table>
<thead>
<tr>
<th>Category</th>
<th>UK domestic firm</th>
<th>Incoming EEA firm</th>
<th>Overseas firm (other than an incoming EEA firm)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TC’s Territorial Scope subject to the limitation in TC Appendix 3</strong></td>
<td><strong>MiFID business and equivalent third country business</strong></td>
<td><strong>TC does not apply</strong></td>
<td><strong>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative or, where applicable, its tied agent) in, and within the territory of, another EEA State</strong></td>
</tr>
<tr>
<td></td>
<td>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom and TC also applies insofar as an activity is carried on from an establishment maintained by the firm (or its appointed representative or, where applicable, its tied agent) in, and within the territory of, another EEA State</td>
<td>TC does not apply</td>
<td><strong>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Insurance mediation activities</strong></td>
<td><strong>TC does not apply</strong></td>
<td><strong>TC does not apply</strong></td>
</tr>
<tr>
<td></td>
<td>TC applies in respect of employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom and TC also applies in respect of employees who engage in or oversee activities from a branch established in another EEA state</td>
<td><strong>TC does not apply</strong></td>
<td><strong>TC does not apply</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Regulated mortgage activity and reversion activity</strong></td>
<td><strong>Same as for UK domestic firm</strong></td>
<td><strong>Same as for UK domestic firm</strong></td>
</tr>
<tr>
<td></td>
<td>TC applies if the customer is resident in the United Kingdom at the time the regulated mortgage activity or reversion activity is carried on and TC also applies if the customer is resident in another EEA State (at the time that the activity is carried on) but only if the activity is carried on from an</td>
<td>Same as for UK domestic firm</td>
<td><strong>Same as for UK domestic firm</strong></td>
</tr>
<tr>
<td>Any other activity in Appendix 1</td>
<td>TC applies in respect of employees who carry on these activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom and TC also applies in respect of employees who carry on activities with or for a client in the United Kingdom</td>
<td>TC applies in respect of its employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom</td>
<td>TC applies in respect of its employees who carry on activities from an establishment maintained by the firm (or its appointed representative) in the United Kingdom</td>
</tr>
</tbody>
</table>
### Circumstances in which TC does not apply

<table>
<thead>
<tr>
<th>Type of firm / activity</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Incoming EEA firm</strong></td>
<td>This sourcebook does not apply where responsibility for any matter it covers is reserved by a European Community instrument to the firm’s Home State regulator</td>
</tr>
<tr>
<td><strong>Incoming Treaty firm</strong></td>
<td>This sourcebook does not apply where responsibility for any matter it covers is reserved by a European Community instrument to the firm’s Home State regulator</td>
</tr>
<tr>
<td><strong>UCITS qualifier</strong></td>
<td>This sourcebook only applies where it is relevant to the manner in which a firm communicates or approves a financial promotion</td>
</tr>
<tr>
<td><strong>Authorised professional firm</strong></td>
<td><strong>TC</strong> does not apply with respect to its non-mainstream regulated activities (see PROF 5.2)</td>
</tr>
<tr>
<td><strong>Incoming ECA provider</strong></td>
<td><strong>TC</strong> does not apply to an incoming ECA provider acting as such.</td>
</tr>
</tbody>
</table>
Transitional Provisions

1 Designated Investment Business: Assessments of competence before commencement

1.1 R (1) This rule applies in respect of an employee of a firm employed at commencement who had, before commencement, been assessed as competent by a firm in accordance with the applicable rules of its previous regulator.

(2) An employee described in (1) is exempt from the requirements in this sourcebook to pass an appropriate examination if the activity (or role of a supervisor) carried on by that employee after commencement is the same or substantially the same as that for which the employee had been assessed as competent before commencement.

1.2 R If an employee of a firm is exempted from an examination requirement under TC TP 1.1R and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(1) the activity which the employee carries on (or the role of the supervisor) continues to be the same, or substantially the same, as that in respect of which the employee had previously enjoyed the benefit of the exemption; and

(2) the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under TC TP 1.

2 Designated Investment Business: Assessments of competence in 12 month period after commencement

2.1 R (1) This rule applies in respect of an employee who had, on 31 October 2007, the benefit of an exemption under transitional rule 2 in TC TP 1.1 in the form it was in on 31 October 2007.

(2) An employee described in (1) is exempt from the requirements in this sourcebook to pass an appropriate examination but only in respect of the activities in respect of which the employee had the benefit of that exemption as at 31 October 2007.

2.2 R If an employee of a firm is exempted from an examination requirement under TC TP 2.1R and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(1) the activity which the employee carries on continues to be the same, or substantially the same, as that in respect of which the employee had previously enjoyed the benefit of the exemption; and
(2) the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under TC TP 2.

2.3 G At 31 October 2007 transitional rule 2 in TC TP 1.1 applied to a firm whose employees at commencement had not been subject to any specific training and competence requirements of a previous regulator. This rule allowed the firm to assess such individuals as competent in the first twelve months after commencement without their having to pass an exam. The exemption applied only in respect of the activities which the individual was able to carry on before commencement where they were the same or substantially the same.

3 Regulated Mortgage Contracts: Assessments of competence under the Mortgage Code Compliance Board Rules

3.1 R (1) This rule applies:

(a) in relation to regulated mortgage contracts; and

(b) in respect of an individual employed by a firm at 31 October 2004.

(2) If the individual described in (1) was assessed as competent by the firm before 31 October 2004 in accordance with the rules of the Mortgage Code Compliance Board applying immediately before 31 October 2004, the individual is exempt from the requirements in this sourcebook to pass an appropriate examination provided that:

(a) the activity which the individual carries on continues to be the same, or substantially the same, as that immediately before 31 October 2004; and

(b) the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under this rule.

3.2 R If an employee of a firm is exempted from an examination requirement under TC TP 3.1R and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(1) the conditions in TC TP 3.1R(2)(a) and (b) are met; and

(2) the firm assesses the individual to be competent in accordance with TC 2.1.1R.
4 Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to lifetime mortgages

4.1 R (1) This rule applies in respect of an individual employed by a firm at 6 April 2007, if that individual had before that date been assessed as competent by the firm in relation to:

(a) advising on lifetime mortgages;
(b) designing scripted questions for use in non-advised sales to customers of lifetime mortgages; or
(c) overseeing non-advised sales of lifetime mortgages.

(2) An individual in (1) is exempt from the examination requirements in this sourcebook in relation to activities carried on concerning home reversion plans that correspond to those in (1) provided that:

(a) the individual has been assessed as competent to apply the knowledge and skills necessary to carry on the relevant home reversion activity before 6 April 2007;
(b) the home reversion activity which the individual carries on continues to be the same, or substantially the same as that which the individual carried on immediately before 6 April 2007; and
(c) the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under this rule.

4.2 R If an employee of a firm is exempted from an examination requirement under TC TP 4.1R and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(1) the conditions in TC TP 4.1R(2)(b) and (c) are met; and
(2) the firm assesses the individual to be competent in accordance with TC 2.1.1R.

4.3 R TC TP 4 does not apply to an individual in TC TP 4.1R(1) after 6 April 2009 unless the individual passes an appropriate home reversions top-up examination before that date.
5.1 R (1) This rule applies in respect of an individual employed by a firm at 6 April 2007 (other than an individual described in TC TP 4.1R).

(2) The individual in (1) is exempt from the examination requirements in this sourcebook in relation to the following:

(a) advising on home reversion plans;

(b) designing scripted questions for use in non-advised sales to customers of home reversion plans; or

(c) overseeing non-advised sales of home reversion plans.

(3) The exemption in (2) only applies if:

(a) the individual has been assessed as competent to apply the knowledge and skills necessary to engage in or oversee the relevant home reversion activity before 6 April 2007;

(b) the home reversion activity which the individual carries on continues to be the same, or substantially the same as that immediately before 6 April 2007; and

(c) the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under this rule.

5.2 R If the individual has not passed an appropriate examination before 6 April 2009, the individual in TC TP 5.1R(1) will cease to be exempt from the appropriate examination requirement.

5.3 R If an employee of a firm is exempted from an examination requirement under TC TP 5.1R and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(1) the conditions in TC TP 5.1R3(b) and (c) are met; and

(2) the firm assesses the individual to be competent in accordance with TC 2.1.1R.
6 Transitional provisions relating to assessments of competence generally

6.1 If appropriate, a firm may treat a competence assessment carried out under TC in the form it was in before 1 November 2007 as being sufficient to satisfy TC 2.1.1R.

7 Transitional provisions relating to waivers from existing examination requirements

7.1 R (1) This provision applies to a firm which benefited from a waiver from an examination requirement in TC prior to 1 November 2007 in respect of an employee. If such a firm would otherwise find itself in breach of an examination requirement in TC from that date as a result of the re-categorisation of clients in COBS, the firm may allow that employee to continue carrying on the activities in respect of which the waiver was granted until 31 October 2008 though he has yet to satisfy the relevant examination requirement in TC.

(2) If an employee of a firm is exempted from an examination requirement under TC TP 7.1(1) and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:

(a) the activity which the employee carries on continues to be the same, or substantially the same, as that in respect of which the employee had previously enjoyed the benefit of the exemption; and

(b) the employee had not experienced any significant break in employment since the last employment in respect of which the relevant exemption was granted.

Schedule 1: Record Keeping Requirements

Schedule 1 Record keeping requirements

TC Sch G TC 3.1.1R provides:
1.1 A firm must make appropriate records to demonstrate compliance with the rules in this sourcebook and keep them for the following periods after an employee stops carrying on the activity:

(1) at least 5 years for MiFID business;

(2) 3 years for non-MiFID business; and

(3) indefinitely for a pension transfer specialist.
Schedule 2: Notification Requirements

Schedule 2 Notification requirements

TC Sch  G  There are no notification or reporting requirements in TC.
2.1

Schedule 3: Fees and other required payments

Schedule 3 Fees and other required payments

TC Sch  G  There are no requirements for fees or other payments in TC.
3.1

Schedule 4: Powers exercised

Schedule 4 Powers exercised

TC Sch  G  The following powers and related provisions in the Act have been exercised to make the rules in TC:
4.1
   (1)  section 138 (General rule making power)
   (2)  section 149 (Evidential provisions)
   (3)  section 150(2) (Actions for damages)
   (4)  section 156 (General supplementary powers)

TC Sch  G  The following power in the Act has been exercised by the FSA to give the guidance in TC:
4.2
   (1)  section 157(1) (Guidance)

Schedule 5: Rights of action for damages

Schedule 5 Rights of action for damages

TC Sch  G  The table below sets out the rules in TC contravention of which by an authorised person may be actionable under section 150 of the Act (Actions for damages) by a person who suffers loss as a result of the contravention.
5.1

TC Sch  G  If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a "private person" under section 150 (or, in certain circumstances, his fiduciary or representative). A "Yes" in the column headed "Removed"
indicates that the *FSA* has removed the right of action under section 150(2) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

<table>
<thead>
<tr>
<th>TC Sch</th>
<th>G</th>
<th>Table: Actions for damages: Training and Competence sourcebook</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3</td>
<td>G</td>
<td>The column headed &quot;For other person?&quot; indicates whether the <em>rule</em> is actionable by a <em>person</em> other than a <em>private person</em> (or his fiduciary or representative). If so, an indication of the type of <em>person</em> by whom the <em>rule</em> is actionable is given.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter/Appendix</th>
<th>Section/Annex</th>
<th>Paragraph</th>
<th>For private person</th>
<th>Removed</th>
<th>For other person</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Rules in TC</em></td>
<td></td>
<td></td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td><em>TC 1.2.1R</em></td>
<td></td>
</tr>
</tbody>
</table>

**Schedule 6: Rules that can be waived**

Schedule 6 Rules that can be waived

<table>
<thead>
<tr>
<th>TC Sch</th>
<th>G</th>
<th>The <em>rules</em> in <em>TC</em> can be <em>waived</em> by the <em>FSA</em> under section 148 of the <em>Act</em> (Modification or waiver of <em>rules</em>).</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1</td>
<td>G</td>
<td></td>
</tr>
</tbody>
</table>

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Annex G

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

10.10.7C G The FSA would expect an individual from overseas to be accompanied on a visit to a customer. TC 2.1.95.5R(42) provides that the firm will have to be satisfied that the individual has at least three years' up-to-date relevant experience obtained outside the United Kingdom. However, the remaining provisions of TC 2.1.95.5R(2) are disapplied in these circumstances (except for an individual who gives advice to retail clients on packaged products or is a broker fund adviser). The effect of this is that such individuals need not pass the relevant regulatory module of an appropriate examination (see TC 2.1.9R(2)5.R(3) and TC 2.5.5 R(4)).

10.10.7E G An individual may advise on investments if he or she has not yet been assessed as competent in accordance with the rules in the Training and Competence Sourcebook (TC). Once that individual has been assessed as competent, the firm should record when that person became competent and no longer required supervision, prior to being assessed as competent in accordance with the rules in the Senior Management Arrangements, Systems and Controls sourcebook (SYSC) and, where relevant, the Training and Competence sourcebook (TC). The firm shall record when that person subsequently becomes competent.

SUP 10 Annex 1 Frequently asked questions

<table>
<thead>
<tr>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Question</strong></td>
</tr>
<tr>
<td>Requirements of the regime</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>11 What checks should a firm make on a candidate before submitting an application for approval from the FSA?</td>
</tr>
</tbody>
</table>
It is for senior management to decide what checks should be made. In deciding if it is necessary to carry out a check of criminal records, the *firm* should consider that the *FSA* does not routinely carry out these checks during the approval process. By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (see Articles 3 and 4 of the Order), the *FSA* and the industry also have a right to ask about spent, as well as unspent, criminal convictions for employment purposes about *candidates* for *approved person* status (see Question 5.01a of Form A (Application to perform controlled functions under the *approved persons* regime)). Note also the provisions of *ENF 8.12.2 G* (Publication) and *TC 2.2.1 R* (Recruitment).

### 2 Table  How does the customer function relate to the training and competence requirements?

<table>
<thead>
<tr>
<th>Activity</th>
<th>Paragraph 1 of the table in <em>TC 2.1.4 R</em></th>
<th>Controlled Function</th>
<th>SUP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advising only, undertaking an activity, advising and dealing, managing investments</td>
<td>2-9, 10-11,</td>
<td><em>customer function (CF30)</em></td>
<td>10.10.4 R</td>
</tr>
<tr>
<td>Managing investments, advising and dealing</td>
<td>12-13, 14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advising (without dealing)</td>
<td>(a)–(c), (d) and (e), (f)–(o)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
12.6.10  G  The rules and guidance relating to training and competence in SYSC 3 and 5 and in TC for a firm carrying on retail business extend to any employee of the firm in respect of whom the relevant rules apply. For these purposes, an employee of a firm includes:

(1) an individual who is an appointed representative of a firm; and

(2) an individual who is employed or appointed by an appointed representative of a firm (whether under a contract of service or for services) in connection with the business of the appointed representative for which the firm has accepted responsibility.

12.6.11  G  A firm should take reasonable care to ensure that:

(1) it has satisfied SYSC 3 or 5 and TC 2 in respect of the relevant staff of the appointed representative; and

(2) its appointed representative has adequate arrangements in respect of training and competence, which meet the requirements in SYSC and TC.

SUP 13A Annex 1G Application of the handbook to Incoming EEA Firms

<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
<th>(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PRIN</strong></td>
<td>…</td>
<td></td>
</tr>
<tr>
<td><strong>TC</strong></td>
<td>TC applies, but only in so far as responsibility for any matter it covers is not reserved by a European Community instrument to the firm's Home State regulator.</td>
<td>TC Appendix 1 R sets out the activities to which TC applies. TC Appendix 2 R sets out the sourcebook’s territorial scope. TC Appendix 3 R sets out the limitations on TC Appendix 2. TC 1 (Commitments): (1) contains guidance relevant to compliance with Principle</td>
</tr>
</tbody>
</table>
3. satisfaction of *threshold condition 5* and the fit and proper test for *approved persons*; it is therefore relevant only if they apply to the *firm* (see the guidance on application of *PRIN, COND* and *FIT* above);

(2) in particular, does not therefore apply if the *firm* has permission only for cross-border services and does not carry on *regulated activities* in the United Kingdom.

*TC 2 (Rules and guidance)* does not apply (*TC 2.1.2R (2)).

<table>
<thead>
<tr>
<th>SUP</th>
<th>…</th>
</tr>
</thead>
</table>

Annex H

Amendments to the Electronic Money sourcebook (ELM)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.5.2 G Application of other parts of the *Handbook* to ELMIs

<table>
<thead>
<tr>
<th>Block</th>
<th>Module</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Level Standards</td>
<td>…</td>
<td></td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Training and Competence sourcebook (<em>TC</em>)</td>
<td>TC 1 (Commitments) applies to ELMIs. TC 2 (Rules and Guidance) applies to a firm whose employees carry on activities listed in TC Appendix 1 R.2.1.4 R. Those activities do not include issuing e-money.</td>
<td></td>
</tr>
<tr>
<td>Regulatory processes</td>
<td>…</td>
<td></td>
</tr>
</tbody>
</table>
Annex I

Amendments to the Professional Firms sourcebook (PROF)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Training and Competence sourcebook

5.3.3 G TC Appendix 3 R 2.1.1 R (2) provides that TC-2, which imposes the substantive training and competence requirements for retail clients or customers, does not apply to an authorised professional firm with respect to its non-mainstream regulated activities.