

**TRAINING AND COMPETENCE SOURCEBOOK (AMENDMENT NO 7)
INSTRUMENT 2007**

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).

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

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

(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~~.

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

- 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*.
- 3.2.14 G ...
- (3) [deleted]
- (4) ...
- ...
- 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~~ in 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

1	This table belongs to <i>ICOB 1.5.1 G. 1</i>	
2	This table sets out the provisions in the <i>Handbook</i> that apply to <i>firms</i> which are <i>insurance intermediaries</i> where they: (1) carry on <i>insurance mediation activities</i> in relation to a <i>non-investment insurance contract</i> ; or (2) <i>communicate or approve a non-investment financial promotion</i> .	
3	It also sets out the provisions in the <i>Handbook</i> that apply to <i>approved persons</i>	
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, <i>TC</i>	<i>TC 1 applies when a firm is doing (1) or (2).</i> <i>TC 2</i> applies only in circumstances where an <i>insurance intermediary</i> has employees advising on <i>non-investment insurance contracts</i> with or for a <i>retail customer</i> as listed in <i>TC Appendix 1 R</i> <i>TC 2.1.4 R.</i>
...

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

- G *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		
Activity	Products/Sectors	Is there an appropriate examination requirement?
<i>Designated investment business carried on for a retail client</i>		
Providing basic advice	1. <i>Stakeholder products excluding a deposit-based stakeholder product</i>	No
Advising	2. <i>Securities which are not stakeholder pension schemes or broker funds</i> 3. <i>Derivatives</i> 4. <i>Packaged products which are not broker funds</i> 5. <i>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</i> 6. <i>Friendly Society tax-exempt policies</i> 7. <i>Long-term care insurance contracts</i> 8. <i>Investments in the course of corporate finance business</i> 9. <i>Advising on syndicate participation at Lloyd's</i>	Yes
Undertaking the activity in column 2	10. <i>Broker fund adviser</i> 11. <i>Pension transfer specialist</i>	Yes
Advising and dealing	12. <i>Securities which are not stakeholder pension schemes or broker funds</i> 13. <i>Derivatives</i>	Yes
Managing	14. <i>Investments</i>	Yes
Overseeing on a day-to-day basis	15. <i>Operating a collective investment scheme or undertaking the activities of a trustee or depositary of a collective investment scheme</i> 16. <i>Safeguarding and administering investments or holding client money</i> 17. <i>Administrative functions in relation to managing investments</i> 18. <i>Administrative functions in relation to effecting or carrying out contracts of insurance, which are life policies</i> 19. <i>Administrative functions in relation to the operation of stakeholder pension schemes</i>	Yes

<i>Regulated mortgage activity and reversion activity carried on for a customer</i>		
Advising	20. <i>Regulated mortgage contracts for a non-business purpose</i> 21. <i>Equity release transactions</i>	Yes
Designing scripted questions for non-advised sales	22. <i>Equity release transactions</i>	Yes
Overseeing non-advised sales on a day-to-day basis	23. <i>Equity release transactions</i>	Yes
<i>Non-investment insurance business carried on for a consumer</i>		
Advising	24. <i>Non-investment insurance contracts</i>	No

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*.

TC's Territorial Scope subject to the limitation in TC Appendix 3			
	<i>UK domestic firm</i>	<i>Incoming EEA firm</i>	<i>Overseas firm (other than an incoming EEA firm)</i>
<i>MiFID business and equivalent third country business</i>	<p><i>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</i></p> <p>and</p> <p><i>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</i></p>	<i>TC does not apply</i>	<i>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</i>
<i>Insurance mediation activities</i>	<p><i>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</i></p> <p>and</p> <p><i>TC also applies in respect of employees who engage in or oversee activities from a branch established in another EEA state</i></p>	<i>TC does not apply</i>	<i>TC does not apply</i>
<i>Regulated mortgage activity and reversion activity</i>	<p><i>TC applies if the customer is resident in the United Kingdom at the time the regulated mortgage activity or reversion activity is carried on</i></p> <p>and</p> <p><i>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</i></p>	<i>Same as for UK domestic firm</i>	<i>Same as for UK domestic firm</i>

	establishment maintained by the <i>firm</i> or its <i>appointed representative</i> in the <i>United Kingdom</i>		
Any other activity in Appendix 1	<p><i>TC</i> applies in respect of <i>employees</i> who carry on these activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i></p> <p>and</p> <p><i>TC</i> also applies in respect of <i>employees</i> who carry on activities with or for a <i>client</i> in the <i>United Kingdom</i></p>	<p><i>TC</i> applies in respect of its <i>employees</i> who carry on activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i></p>	<p><i>TC</i> applies in respect of its <i>employees</i> who carry on activities from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i></p>

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

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 Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to Home Reversion Plans only
- 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 G 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 1.1 G *TC* 3.1.1R provides:

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
4.1 to make the *rules* in *TC*:

- (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
4.2 guidance in *TC*:

- (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*
5.1 *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.

TC Sch G If a "Yes" appears in the column headed "For private person?", the *rule* may be
5.2 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.

TC Sch 5.3 G The column headed "For other person?" indicates whether the *rule* is actionable by a *person* other than a *private person* (or his fiduciary or representative). If so, an indication of the type of *person* by whom the *rule* is actionable is given.

TC Sch 5.4 G Table: Actions for damages: Training and Competence sourcebook

			Right of action under section 150		
Chapter/Appendix	Section/Annex	Paragraph	For private person	Removed	For other person
<i>Rules in TC</i>			No	Yes <i>TC 1.2.1R</i>	No

Schedule 6: Rules that can be waived

Schedule 6 Rules that can be waived

TC Sch 6.1 G The *rules* in *TC* can be *waived* by the *FSA* under section 148 of the *Act* (Modification or waiver of *rules*).

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 disappplied 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)5.5 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

G

	Question	Answer
	Requirements of the regime	
1	...	
11	What checks should a <i>firm</i> make on a <i>candidate</i> before submitting an application for approval from the FSA?	The FSA expects <i>firms</i> to perform due and diligent enquiries about their <i>candidates</i> before they submit an application to us for approval. Our approval process is not a substitute for the checks that a <i>firm</i> should be carrying out on its prospective recruits. It is for the <i>firm</i> to determine what checks are appropriate but in making its decision, a <i>firm</i> should have regard to the <i>controlled function</i> to which the application relates. <u>Firms' enquiries should include checks to verify relevant qualifications and previous employment.</u> Note also the <u>requirements provisions of ENF 8.12.2 G (Publication) and TC 2.2.1 R (Recruitment).</u>

11A	Should these checks include a check of criminal records?	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 <i>firm</i> should consider that the <i>FSA</i> 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 <i>FSA</i> and the industry also have a right to ask about spent, as well as unspent, criminal convictions for employment purposes about <i>candidates</i> for <i>approved person</i> status (see Question 5.01a of Form A (Application to perform controlled functions under the <i>approved persons</i> regime)). Note also the provisions of <i>ENF 8.12.2 G</i> (Publication) and <i>TC 2.2.1 R</i> (Recruitment).
12	...	

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

Activity	Paragraph 1 of the table in <i>TC 2.1.4 R</i> <u>Products/sectors in <i>TC Appendix 1 R</i></u>	Controlled Function	SUP
<u>Advising only,</u> <u>Undertaking an activity,</u> <u>Advising and dealing</u> <u>Managing investments</u> <u>Advising and dealing,</u> <u>Managing,</u> <u>Advising (without dealing)</u>	<u>2-9,</u> <u>10-11,</u> <u>12-13,</u> <u>14</u> (a)–(c), (d) and (e), (f)–(g)	<i>customer function</i> (CF30)	10.10.4 R

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

...		
(1) Module of Handbook	(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	(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
<i>PRIN</i>	...	
<i>TC</i>	<i>TC</i> applies, but only in so far as responsibility for any matter it covers is not reserved by a European Community instrument to the <i>firm's Home State regulator</i> .	<i>TC Appendix 1 R</i> sets out the <u>activities to which <i>TC</i> applies</u> . <i>TC Appendix 2 R</i> sets out the <u>sourcebook's territorial scope</u> . <i>TC Appendix 3 R</i> sets out the <u>limitations on <i>TC Appendix 2</i></u> . <i>TC 1 (Commitments)</i> : (1) contains <i>guidance</i> relevant to compliance with <i>Principle</i>

		<p>3, satisfaction of <i>threshold condition 5</i> and the fit and proper test for <i>approved persons</i>; it is therefore relevant only if they apply to the <i>firm</i> (see the <i>guidance</i> on application of <i>PRIN</i>, <i>COND</i> and <i>FIT</i> above);</p> <p>(2) in particular, does not therefore apply if the <i>firm</i> has <i>permission</i> only for <i>cross-border</i> services and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i>.</p> <p>TC 2 (Rules and guidance) does not apply (TC 2.1.2R (2)).</p>
SUP	...	

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

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

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*.