

**Specified modified requirements**

## Chapter 4

Specified modified  
requirements



4.1 Specified requirements for MiFID investment firms and for third country investment firms

- 4.1.1

R

For a *firm* in relation to its *MiFID* or equivalent *third country business* the *rules* set out in column 1 of the table in ■ TC 4.1.4R below are amended as set out in column 2.
- 4.1.2

R

In this section, references to relevant individuals are natural persons who, on behalf of the *firm*:

(1) make *personal recommendations* to *retail clients* in relation to *financial instruments*; or

(2) provide information to *retail clients* about *financial instruments*, *investment services* or *ancillary services*; or

who are otherwise responsible for the supervision of a relevant individual who has not acquired the necessary knowledge and competence to act in a capacity prescribed in (1) or (2).
- 4.1.3

R

References in ■ TC 4.1.4R to a relevant individual's knowledge and competence are to the knowledge and competence necessary to ensure that the *firm*, on behalf of which the relevant individual acts, is able to meet its obligations under:

(1) those *rules* which implemented articles 24 and 25 of *MiFID* (including those *rules* which implemented related provisions under the *MiFID Delegated Directive*); and

(2) related provisions of the *MiFID Org Regulation*.
- 4.1.4

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Unless the context requires otherwise the *rules* in column 1 of the table are amended as set out in column 2:

Column 1 Relevant rule	Column 2 Amendments
TC 2.1.1R(1)	<div>Insert the following at the end of TC 2.1.1R(1):</div> <div>"In addition, a <i>firm</i> must not assess a relevant individual as competent unless the <i>firm</i> has satisfied itself</div>

TC 2.1.2R

that the relevant individual possesses the knowledge and competence to enable the *firm* to meet its obligations under SYSC 5.1.5ABR. This means that the relevant individual has also:

(a) obtained appropriate experience which means that the relevant individual has successfully demonstrated the ability to carry on the activities through previous work experience. This work must have been performed, on a full-time equivalent basis, for a minimum period of 6 *months*; and

(b) attained an appropriate qualification which means a qualification or other test or training course that meets the criteria set out by the ESMA guidelines referred to in TC 1.1.1BG.

The level of knowledge and competence needed to fulfil the *firm's* obligations reflects the scope and degree of the activities, as described in TC 4.1.2R above, carried out by the relevant individual."

The provision is amended by adding after TC 2.1.2R:

"A relevant individual, who has not acquired the necessary knowledge or competence to carry out the activities in TC 4.1.2R above, cannot provide those activities under supervision for a period exceeding 48 *months*."

TC 2.1.5R(1)

The provision is amended by adding after TC 2.1.5R:

"Where a relevant individual has not acquired the necessary knowledge and competence to carry out the activities described in TC 4.1.2R above:

(a) the *firm* must ensure that the individual supervising the relevant individual:

(i) has been assessed as competent to provide such *personal recommendation* or information;

(ii) has the necessary skills and resources to act as a competent supervisor; and

(iii) takes responsibility for the *personal recommendation* or information, referred to in TC 4.1.2R above, provided by the relevant individual

4.1.5

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Rules in this section relate to the requirements in ■ SYSC 5.1.5ABR.

4.1.6

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For relevant individuals of an *incoming EEA firm*, with an establishment maintained by that *firm* (or its *appointed representative*) in the *United Kingdom*, the matters covered by ■ SYSC 5.1.5ABR are matters reserved for the *United Kingdom* as the *Host State regulator*.

under supervision as if the supervisor is providing the *personal recommendation* including any *suitability report* (COBS 9) or information; and

(b) the *firm* must ensure that the supervision provided to a relevant individual is tailored to the services provided by the individual."