

## **MiFID II KNOWLEDGE & COMPETENCE REQUIREMENTS**

### **1. INTRODUCTION**

One of the aims of MiFID II is to establish a more structured regulatory framework so that MiFID investment firms can ensure and demonstrate that staff providing advice or information about financial instruments, investment services or ancillary services (relevant staff) possess the necessary knowledge and competence to fulfil their investor protection obligations to clients (Article 25(1) of MiFID II).

The European Securities and Markets Authority (ESMA) level 3 [Final Report of Guidelines for the assessment of knowledge and competence](#) (the ESMA Guidelines) is intended to improve investor protection by increasing the knowledge and competence of relevant staff. The FCA Training and Competence Sourcebook, and Senior Management Arrangements, Systems and Controls sourcebook (SYSC) have been updated to reflect the MiFID II requirements.

### **2. SCOPE**

#### **Appropriate qualification & experience**

The principal MiFID II changes impacting relevant staff are outlined in the ESMA Guidelines, which state that such individuals must have both an appropriate qualification and appropriate experience. Formal qualifications are not essential; the requirements can be met via in-house training. Relevant staff must have a minimum of six months experience.

#### **Supervision**

Employees without appropriate qualification or experience must work under supervision until both have been achieved. The maximum period of time that an individual can work under supervision is 4 years. During this time, the supervisor (who must have both an appropriate qualification and appropriate experience) must take responsibility for the provision of relevant services provided by the inexperienced staff member. MiFID investment firms will need to keep records and be able to demonstrate to the FCA that the knowledge and competence requirements have been met.

Grandfathering arrangements are not available; from 3 January 2018, all relevant staff will need an appropriate qualification and level of experience, or need to be working under supervision.

### **3. CONCLUSION AND REQUIREMENTS**

- Potentially, the new Training and Competence requirements could impact Transfer Agencies in situations where their staff provide information on MiFID II products or services, whether in person, over the phone (such as contact centres), or by electronic means.
- However, Transfer Agency employees do not normally have discretion in respect of client instructions; and if the Transfer Agency's service to a MiFID investment firm is sufficiently defined so that it leaves no flexibility to its employees in whether or not to proceed with a given task, this significantly reduces the scope of any client interaction and for the TC and SYSC knowledge and competence obligations to be demonstrated. For instance, ESMA has clarified examples of where employees do not fall within the scope of its guidelines, such as where an employee is only pointing out where investors can find information, distributing brochures or handing over KIIDs, and performing back-office functions.
- Ultimately, the new regulatory obligations under TC and SYSC rest with a Transfer Agent's client firms. And it is worth noting that there is no new express regulatory requirement in TC or SYSC that imposes any equivalency on a firm providing transfer agency services to a MiFID investment firm.