

# Principles for Businesses

## Principles for Businesses

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# Chapter 1

## Introduction

## 1.1 Application and purpose

### Application

- 1.1.1 **G** The *Principles* (see ■ PRIN 2) apply in whole or in part to every *firm*. The application of the *Principles* is modified for *firms* conducting *MiFID business*, *incoming EEA firms*, *incoming Treaty firms*, *UCITS qualifiers* *AIFM qualifiers*, and *Annex II benchmark administrators*. ■ PRIN 3 (Rules about application) specifies to whom, to what and where the *Principles* apply.
- 1.1.1A **G** The *Principles* also apply to certain *payment service providers* and *electronic money issuers* that are not *firms*. ■ PRIN 3.1.1AR sets out the application of the *Principles* to these *persons*. The references to a *firm* in ■ PRIN 2 includes such *persons*.

### Purpose

- 1.1.2 **G** The *Principles* are a general statement of the fundamental obligations of *firms* and the other *persons* to whom they apply under the *regulatory system*. This includes provisions which implement the *Single Market Directives*. They derive their authority from the *FCA's* rule-making powers as set out in the *Act*, including as applied by the *Payment Services Regulations* and the *Electronic Money Regulations*, and reflect the *statutory objectives*.
- 1.1.3 **G** [deleted]

### Link to fit and proper standard

- 1.1.4 **G** In substance, the *Principles* express the main dimensions of the "fit and proper" standard set for *firms* in *threshold condition 5* (Suitability), although they do not derive their authority from that standard or exhaust its implications. Being ready, willing and organised to abide by the *Principles* is therefore a critical factor in applications for *Part 4A permission*, and breaching the *Principles* may call into question whether a *firm* with *Part 4A permission* is still fit and proper.
- 1.1.4A **G** For *persons* authorised or registered under the *Payment Services Regulations* or the *Electronic Money Regulations*, the relevant "fit and proper standards" are the standards set in those Regulations.

### Taking group activities into account

- 1.1.5 **G** *Principles 3 (Management and control), 4 (Financial prudence) and (in so far as it relates to disclosing to the FCA ) 11 (Relations with regulators) take into account the activities of members of a firm's group. Compliance by another person to whom the Principles apply with Principles 3, 4 and 11 can also be affected by the activities of other persons who are members of their group. This does not mean that, for example, inadequacy of a group member's risk management systems or resources will automatically lead to a firm contravening Principle 3 or 4. Rather, the potential impact of a group member's activities (and, for example, risk management systems operating on a group basis) will be relevant in determining the adequacy of the firm's risk management systems or resources respectively.*

### Standards in markets outside the United Kingdom

- 1.1.6 **G** *As set out in ■ PRIN 3.3 (Where?), Principles 1 (Integrity), 2 (Skill, care and diligence) and 3 (Management and control) apply to world-wide activities in a prudential context. Principle 5 (Market conduct) applies to world-wide activities which might have a negative effect on confidence in the UK financial system. In considering whether to take regulatory action under these Principles in relation to activities carried on outside the United Kingdom, the FCA will take into account the standards expected in the market in which the firm or other person to whom the Principles apply is operating. Principle 11 (Relations with regulators) applies to world-wide activities; in considering whether to take regulatory action under Principle 11 in relation to cooperation with an overseas regulator, the FCA will have regard to the extent of, and limits to, the duties owed by the firm or other person to that regulator. (Principle 4 (Financial prudence) also applies to world-wide activities.)*
- 1.1.6A **G** ■ PRIN 4 (Principles : MiFID Business) provides guidance on the application of the Principles to MiFID business.

### Consequences of breaching the Principles

- 1.1.7 **G** *Breaching a Principle makes a firm or other person to whom the Principles apply liable to disciplinary sanctions. In determining whether a Principle has been breached it is necessary to look to the standard of conduct required by the Principle in question. Under each of the Principles the onus will be on the FCA to show that a firm or other person has been at fault in some way. What constitutes "fault" varies between different Principles. Under Principle 1 (Integrity), for example, the FCA would need to demonstrate a lack of integrity in the conduct of a firm's or other person's business. Under Principle 2 (Skill, care and diligence) a firm or other person would be in breach if it was shown to have failed to act with due skill, care and diligence in the conduct of its business. Similarly, under Principle 3 (Management and control) a firm or other person would not be in breach simply because it failed to control or prevent unforeseeable risks; but a breach would occur if the firm or other person had failed to take reasonable care to organise and control its affairs responsibly or effectively.*
- 1.1.8 **G** *The Principles are also relevant to the FCA's powers of information-gathering, to vary a firm's Part 4A permission or authorisation or registration under the Payment Services Regulations or Electronic Money Regulations,*

and of investigation and intervention, and provide a basis on which the *FCA* may apply to a court for an *injunction* or restitution order or require a *firm* or other *person* to make restitution. However, the *Principles* do not give rise to actions for damages by a *private person* (see ■ PRIN 3.4.4 R).

1.1.9

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Some of the other *rules* and *guidance* in the *Handbook* deal with the bearing of the *Principles* upon particular circumstances. However, since the *Principles* are also designed as a general statement of regulatory requirements applicable in new or unforeseen situations, and in situations in which there is no need for *guidance*, the *FCA's* other *rules* and *guidance* or *EU regulations* should not be viewed as exhausting the implications of the *Principles* themselves.

**Responsibilities of providers and distributors under the Principles**

1.1.10

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*RPPD* contains *guidance* on the responsibilities of providers and distributors for the fair treatment of *customers* under the *Principles*.

## 1.2 Clients and the Principles

### Characteristics of the client

- 1.2.1 **G** *Principles 6 (Customers' interests), 7 (Communications with clients), 8 (Conflicts of interest), 9 (Customers: relationships of trust) and 10 (Clients' assets) impose requirements on firms expressly in relation to their clients or customers. These requirements depend, in part, on the characteristics of the client or customer concerned. This is because what is "due regard" (in Principles 6 and 7), "fairly" (in Principles 6 and 8), "clear, fair and not misleading" (in Principle 7), "reasonable care" (in Principle 9) or "adequate" (in Principle 10) will, of course, depend on those characteristics. For example, the information needs of a general insurance broker will be different from those of a retail general insurance policyholder.*

### Approach to client categorisation

- 1.2.2 **G** *Principles 6, 8 and 9 and parts of Principle 7, as qualified by ■ PRIN 3.4.1 R, apply only in relation to customers. The approach that a firm (other than for credit-related regulated activities, payment services and issuing electronic money (where not a regulated activity) and regulated claims management activities in relation to which client categorisation does not apply) needs to take regarding categorisation of clients into customers and eligible counterparties will depend on whether the firm is carrying on designated investment business, insurance risk transformation and activities directly arising from insurance risk transformation, or other activities, as described in ■ PRIN 1.2.3 G.*
- 1.2.3 **G**
- (1) In relation to the carrying on of *designated investment business, insurance risk transformation* and activities directly arising from *insurance risk transformation*, a firm's categorisation of a *client* under the *COBS client* categorisation chapter (■ COBS 3) will be applicable for the purposes of *Principles 6, 7, 8 and 9*.
  - (1AA) In relation to the carrying on of *insurance risk transformation* and activities directly arising from *insurance risk transformation*, the *COBS client* categorisation chapter (■ COBS 3) applies as modified by ■ COBS 18.6A.3R.
  - (1A) *Client* categorisation under ■ COBS 3 or ■ PRIN 1 Annex 1 is not relevant to *credit-related regulated activities* and therefore the guidance on *client* categorisation does not apply in relation to a *credit-related regulated activity*. The definitions of *client* and *customer* in relation to those *regulated activities* reflect the modified meaning of "consumer" in articles 36J, 39M, 60LA, 60S and 89E of the *Regulated*

*Activities Order*, as well as the definitions of “individual” and of “relevant recipient of credit” in that Order.

- (1AB) *Client* categorisation under ■ COBS 3 or ■ PRIN 1 Annex 1R is not relevant to *regulated claims management activities* and therefore the guidance on *client* categorisation does not apply in relation to a *regulated claims management activity*.
- (2) The *person* to whom a *firm* gives *basic advice* on a *stakeholder product* will be a *retail client* for all purposes, including the purposes of *Principles 6, 7, 8 and 9*.
- (3) In relation to carrying on activities other than *designated investment business, insurance risk transformation* or activities directly arising from *insurance risk transformation* (for example, *general insurance business* or *accepting deposits*) the *firm* may choose to comply with *Principles 6, 7, 8 and 9* as if all its *clients* were *customers*. Alternatively, it may choose to distinguish between *eligible counterparties* and *customers* in complying with those *Principles*. If it chooses to make such a distinction, it must comply with ■ PRIN 1 Annex 1 in determining whether that *client* is an *eligible counterparty* (see ■ PRIN 3.4.2 R). In doing so, the requirements in *SYSC* will apply, including the requirement to make and retain adequate records.
- (4) In relation to carrying on activities that fall within both (1) and (3) (for example, mixed *designated investment business* and *accepting deposits*), a *firm's* categorisation of a *client* under the *COBS client* categorisation chapter (■ COBS 3) will be applicable for the purposes of *Principles 6, 7, 8 and 9*.

1.2.4 G [deleted]

1.2.5 G [deleted]

1.2.6 G If the *person* with or for whom the *firm* is carrying on an activity is acting through an agent, the ability of the *firm* to treat the agent as its *client* under ■ COBS 2.4.3 R (Agent as client) will not be available. For example, if a *general insurer* is effecting a *general insurance contract* through a general insurance broker who is acting as agent for a disclosed *policyholder*, the *policyholder* will be a *client* of the *firm* and the *firm* must comply with the *Principles* accordingly.



## Non-designated investment business - clients that a firm may treat as an eligible counterparty for the purposes of PRIN

- 1.1 A *firm* may categorise the following types of *client* as an *eligible counterparty* for the purposes of *PRIN*:
- (1) a properly constituted government (including a quasi-governmental body or a government agency) of any country or territory;
  - (2) a central bank or other national monetary authority of any country or territory;
  - (3) a supranational whose members are either countries or central banks or national monetary authorities;
  - (4) a State investment body, or a body charged with, or intervening in, the management of the public debt at national level;
  - (5) another *firm*, or an *overseas financial services institution*;
  - (6) any *associate* of a *firm* (except an *OPS firm*), or of an *overseas financial services institution*, if the *firm* or institution consents;
  - (7) a *client* when he is classified as an *eligible counterparty* in accordance with 1.2; or
  - (8) a *recognised investment exchange, regulated market or clearing house*.
- 1.2 A *firm* may classify a *client* (other than another *firm, regulated collective investment scheme, or an overseas financial services institution*) as an *eligible counterparty* for the purposes of *PRIN* under 1.1(7) if:
- (1) the *client* at the time he is classified is one of the following:
    - (a) a *body corporate* (including a *limited liability partnership*) which has (or any of whose *holding companies* or *subsidiaries* has) called up share capital of at least £10 million (or its equivalent in any other currency at the relevant time);
    - (b) a *body corporate* that meets (or any of whose holding companies or subsidiaries meets) two of the following tests:
      - (i) a balance sheet total of 12.5 million euros (or its equivalent in any other currency at the relevant time);
      - (ii) a net turnover of 25 million euros (or its equivalent in any other currency at the relevant time);
      - (iii) an average number of employees during the year of 250;
    - (c) [deleted]
    - (d) a *partnership* or unincorporated association which has net assets of at least £10 million (or its equivalent in any other currency at the relevant time) (and calculated, in the case of a limited *partnership*, without deducting loans owing to any of the *partners*);
    - (e) a trustee of a trust (other than an *occupational pension scheme, SSAS, personal pension scheme or stakeholder pension scheme*) with assets of at least £10 million (or its equivalent in any other currency), calculated by aggregating the value of the cash and *designated investments* forming part of the trust's assets, but before deducting its liabilities;
    - (f) a trustee of an *occupational pension scheme* or *SSAS*, or a trustee or operator of a *personal pension scheme* or *stakeholder pension scheme* where the *scheme* has (or has had at any time during the previous two years):

- (i) at least 50 members; and
  - (ii) assets under management of not less than £10 million (or its equivalent in any other currency at the relevant time); and
- (2) the *firm* has, before commencing business with the *client* on an *eligible counterparty* basis:
  - (a) advised the *client* in writing that he is being categorised as an *eligible counterparty* for the purposes of *PRIN*;
  - (b) given a written warning to the *client* that he will lose protections under the *regulatory system*;
  - (c) for a *client* falling under (1)(a) or (b):
    - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
    - (ii) not been notified by the *client* that the *client* objects to being classified as an *eligible counterparty*;
  - (d) for a *client* falling under (1)(c), (d), (e) or (f):
    - (i) taken reasonable steps to ensure that the written notices required by (a) and (b) have been delivered to a *person* authorised to take such a decision for the *client*; and
    - (ii) obtained the *client's* written consent or is otherwise able to demonstrate that consent has been given.

## Chapter 2

# The Principles

**2.1 The Principles**

2.1.1



**The Principles**

<b>1 Integrity</b>	A <i>firm</i> must conduct its business with integrity.
<b>2 Skill, care and diligence</b>	A <i>firm</i> must conduct its business with due skill, care and diligence.
<b>3 Management and control</b>	A <i>firm</i> must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
<b>4 Financial prudence</b>	A <i>firm</i> must maintain adequate financial resources.
<b>5 Market conduct</b>	A <i>firm</i> must observe proper standards of market conduct.
<b>6 Customers' interests</b>	A <i>firm</i> must pay due regard to the interests of its <i>customers</i> and treat them fairly.
<b>7 Communications with clients</b>	A <i>firm</i> must pay due regard to the information needs of its <i>clients</i> , and communicate information to them in a way which is clear, fair and not misleading.
<b>8 Conflicts of interest</b>	A <i>firm</i> must manage conflicts of interest fairly, both between itself and its <i>customers</i> and between a <i>customer</i> and another <i>client</i> .
<b>9 Customers: relationships of trust</b>	A <i>firm</i> must take reasonable care to ensure the suitability of its advice and discretionary decisions for any <i>customer</i> who is entitled to rely upon its judgment.
<b>10 Clients' assets</b>	A <i>firm</i> must arrange adequate protection for <i>clients'</i> assets when it is responsible for them.
<b>11 Relations with regulators</b>	A <i>firm</i> must deal with its regulators in an open and cooperative way, and must disclose to the <i>FCA</i> appropriately anything relating to the <i>firm</i> of which that regulator would reasonably expect notice.

# Chapter 3

## Rules about application

## 3.1 Who?

- 3.1.1** **R** *PRIN* applies to every *firm*, except that:
- (1) for an *incoming EEA firm* or an *incoming Treaty firm*, the *Principles* apply only in so far as responsibility for the matter in question is not reserved by an *EU instrument* to the *firm's Home State regulator*;
  - (2) for an *incoming EEA firm* which is a *CRD credit institution* without a *top-up permission*, *Principle 4* does not apply;
  - (3) for an *incoming EEA firm* which has *permission* only for *cross border services* and which does not carry on *regulated activities* in the *United Kingdom*, the *Principles* do not apply;
  - (4) for a *UCITS qualifier* and *AIFM qualifier*, only *Principles 1, 2, 3, 7 and 9* apply, and only with respect to the activities in **■ PRIN 3.2.2 R** (*Communication and approval of financial promotions*);
  - (5) *PRIN* does not apply to an *incoming ECA provider* acting as such; and
  - (6) *PRIN* does not apply to a *firm* in relation to its carrying on of *auction regulation bidding*.
- 3.1.1A** **R** *PRIN* also applies:
- (1) to an *electronic money institution*, an *authorised payment institution*, a *small payment institution* or a *registered account information service provider*; and
  - (2) with the exception of *Principle 4*, and only in so far as responsibility for the matter in question is not reserved by the *Payment Services Directive*, *Electronic Money Directive* or other *EU instrument* to the *person's Home State regulator*, to an *EEA authorised electronic money institution*, an *EEA authorised payment institution* and an *EEA registered account information service provider*.
- 3.1.2** **G** **■ COBS 1 Annex 1** contains *guidance* that is relevant to the reservation of responsibility to a *Home State regulator* referred to in **■ PRIN 3.1.1 R (1)**.
- 3.1.3** **G** [deleted]

- 3.1.4 **G** ■ PRIN 3.1.1 R (3) puts *incoming EEA firms* on an equal footing with unauthorised overseas persons who utilise the overseas persons exclusions in article 72 of the *Regulated Activities Order*.
- 3.1.5 **G** ■ PRIN 3.1.1 R (4) reflects section 266 of the *Act* (Disapplication of rules).
- 3.1.6 **R** A *firm* or other *person* will not be subject to a *Principle* to the extent that it would be contrary to the *UK's* obligations under an *EU* instrument.
- 3.1.7 **G** ■ PRIN 4 provides specific guidance on the application of the *Principles* for *MiFID business*.
- 3.1.8 **G** The *Principles* will not apply to the extent that they purport to impose an obligation which is inconsistent with the *Payment Services Directive*, the *Consumer Credit Directive* or the *Electronic Money Directive*. For example, there may be circumstances in which *Principle 6* may be limited by the harmonised conduct of business obligations applied by the *Payment Services Directive* and the *Electronic Money Directive* to *payment service providers* and *electronic money issuers* (see Parts 6 and 7 of the *Payment Services Regulations* and Part 5 of the *Electronic Money Regulations*) or applied by the *Consumer Credit Directive* (see, for example, the information requirements in the Consumer Credit (Disclosure of Information) Regulations 2010 (SI 2010/1013)).

## 3.2 What?

- 3.2.1A** **R** *PRIN* applies with respect to the carrying on of:
- (1) *regulated activities*;
  - (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc);
  - (3) *ancillary activities* in relation to *designated investment business*, *home finance activity*, *credit-related regulated activity*, *insurance distribution activity* and *accepting deposits*; and
  - (4) activities directly arising from *insurance risk transformation*.
- 3.2.1B** **R** Other than with respect to a *firm* that is a *credit union*, *PRIN* also applies with respect to:
- (1) the provision of *payment services*;
  - (2) issuing of *electronic money* (where not the activity of *issuing electronic money* specified in article 9B of the *Regulated Activities Order*); and
  - (3) activities connected to the provision of *payment services* and to the issuing of *electronic money* (whether or not the activity of *issuing electronic money* specified in article 9B of the *Regulated Activities Order*).
- 3.2.1C** **G** Issuing of *electronic money* will therefore be covered under either **■** PRIN 3.2.1AR(1) where it is the regulated activity of *issuing electronic money* specified in article 9B of the *Regulated Activities Order*, or under **■** PRIN 3.2.1BR where it is not that *regulated activity*.
- 3.2.2** **R** *PRIN* also applies with respect to the *communication and approval of financial promotions* which:
- (1) if *communicated* by an *unauthorised person* without *approval* would contravene section 21(1) of the *Act* (Restrictions on financial promotion); and



(2) may be *communicated* by a *firm* without contravening section 238(1) of the *Act* (Restrictions on promotion of collective investment schemes).

- 3.2.2-A **G** *PRIN* applies to the communication of promotions concerning *payment services* and *electronic money*.
- 3.2.2A **R** ■ *PRIN* 1 Annex 1, ■ *PRIN* 3.4.1 R and ■ *PRIN* 3.4.2 R do not apply with respect to the carrying on of *credit-related regulated activities* or *regulated claims management activities*, or to the provision of *payment services* or the issuing of *electronic money* (where not a *regulated activity*).
- 3.2.3 **R** Subject to ■ *PRIN* 3.2.4R, *Principles* 3, 4 and (in so far as it relates to disclosing to the *FCA*) 11 (and this chapter) also:
- (1) apply to *firms* with respect to the carrying on of *unregulated activities* (for *Principle* 3 this is only in a *prudential context*); and
  - (2) for *firms* and other *persons* that are subject to the *Principles*, take into account any activity of other members of a *group* of which the *firm* is a member.
- 3.2.4 **R** In relation to an *Annex II benchmark administrator* which:
- (1) administers only *benchmarks* which are subject to Annex II to the *benchmarks regulation*; and
  - (2) does not have *permission* to carry on any other *regulated activities* in relation to which *Principle* 11 applies,
- Principle* 11 (in so far as it relates to disclosing to the *FCA*) applies only to the *regulated activity* of *administering a benchmark*.
- 3.2.5 **G** The *FCA* only expects an *Annex II benchmark administrator* subject to ■ *PRIN* 3.2.4R to disclose information under *Principle* 11 which is relevant to the *firm's* compliance with its obligations under the *benchmarks regulation*.



### 3.3 Where?

#### 3.3.1 **R** Territorial application of the Principles

Principle	Territorial application
<i>Principles 1, 2 and 3</i>	in a <i>prudential context</i> , apply with respect to activities wherever they are carried on; otherwise, apply with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> ) in the <i>United Kingdom</i> , or in respect of <i>regulated claims management activities</i> , apply with respect to activity carried on in <i>Great Britain</i> , even if the establishment from which it is carried on is not located in the <i>UK</i> (see <a href="#">PERG 2.4A</a> ), unless another applicable <i>rule</i> or <i>EU regulation</i> which is relevant to the activity has a wider territorial scope, in which case the <i>Principle</i> applies with that wider scope in relation to the activity described in that <i>rule</i> or <i>EU regulation</i> .
<i>Principle 4</i>	applies with respect to activities wherever they are carried on.
<i>Principle 5</i>	if the activities have, or might reasonably be regarded as likely to have, a negative effect on confidence in the <i>UK financial system</i> , applies with respect to activities wherever they are carried on; otherwise, applies with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> ) in the <i>United Kingdom</i> , or in respect of <i>regulated claims management activities</i> , applies with respect to activity carried on in <i>Great Britain</i> , even if the establishment from which it is carried on is not located in the <i>UK</i> (see <a href="#">PERG 2.4A</a> ).
<i>Principles 6, 7, 8, 9 and 10</i>	<i>Principle 8</i> , in a <i>prudential context</i> , applies with respect to activities wherever they are carried on; otherwise apply with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i> ) in the <i>United Kingdom</i> , or in respect of <i>regulated claims management activities</i> , apply with respect to activity carried on in <i>Great Britain</i> , even if the establishment from which it is carried on is not located in the <i>UK</i> (see <a href="#">PERG 2.4A</a> ), unless another applicable <i>rule</i> or <i>EU regulation</i> which is relevant to the activity has a wider territorial scope, in which case the <i>Principle</i> applies with

Principle	Territorial application
	that wider scope in relation to the activity described in that <i>rule</i> or <i>EU regulation</i> .
<i>Principle 11</i>	applies with respect to activities wherever they are carried on.

3.3.2

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[deleted]

3.3.3

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■ PRIN 3.3.1R applies to *electronic money institutions, EEA authorised electronic institutions, payment institutions, registered account information service providers and EEA registered account information service providers* as if the references to a *firm* were references to a *person* within that description, and references to an *appointed representative* were to an *agent* of such a *person* within the meaning of the *Payment Services Regulations*.

## 3.4 General

### Clients and the Principles

- 3.4.1** **R** For business other than *MiFID* or equivalent third country business, the only requirement of *Principle 7* relating to *eligible counterparties* is that a *firm* must communicate information to *eligible counterparties* in a way that is not misleading.
- 3.4.1A** **G** *Principle 7* applies in full to *MiFID* or equivalent third country business.
- 3.4.2** **R** For the purposes of *PRIN*, a *firm* intending to carry on, or carrying on, activities that do not involve *designated investment business*, may treat a *client* as an *eligible counterparty* in accordance with **PRIN 1 Annex 1 R**.
- 3.4.3** **G**
- (1) **COBS 3** (Client categorisation) applies to a *firm* intending to conduct, or conducting, *designated investment business* (other than giving *basic advice*), *ancillary activities* relating to *designated investment business* and to a *firm* intending to carry on, or carrying on, *insurance risk transformation* and activities directly arising from *insurance risk transformation*. Any *client* categorisation established in relation to such business will be applicable for the purposes of *Principles 6, 7, 8* and *9*.
  - (2) The *person* to whom a *firm* gives *basic advice* will be a *retail client* for all purposes including the purposes of *Principles 6, 7, 8* and *9*.
  - (3) **PRIN 3.4.1 R** and **PRIN 3.4.2 R** do not apply with respect to the carrying on of *credit-related regulated activities*. Client categorisation does not apply in relation to carrying on a *credit-related regulated activity*. The definitions of *client* and *customer* in relation to those *regulated activities* reflect the modified meaning of "consumer" in articles 36J, 39M and 89E of the *Regulated Activities Order*, as well as the definitions of "individual" and of "relevant recipient of credit" in that Order.
  - (4) **PRIN 3.4.1R** and **PRIN 3.4.2R** do not apply with respect to the carrying on of *regulated claims management activities*. Client categorisation does not apply in relation to carrying on a *regulated claims management activity*.

- (5) ■ PRIN 3.4.1R and ■ PRIN 3.4.2R do not apply with respect to the provision of *payment services* or the issuing of *electronic money* where it is not a *regulated activity*. *Client* categorisation does not apply in relation to carrying on of those activities. The definitions of *customer* in relation to those activities reflects the scope of the corporate opt out under the *Payment Services Regulations*.

#### Guarantors etc

3.4.3A

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- (1) Paragraph (2) applies in relation to an *individual* who:
- (a) has provided, or is to provide, a guarantee or an indemnity (or both) in relation to a *regulated credit agreement*, a *regulated consumer hire agreement* or a *P2P agreement*; and
  - (b) is not the *borrower* or the *hirer*.
- (2) If the *individual* is not a *customer*, they are to be treated as if they were a *customer* for the purposes of *Principles 6* and *7*.
- (3) For the purposes of this *rule*, a guarantee does not include a *legal or equitable mortgage* or a *pledge*.

#### Actions for damages

3.4.4

R

A contravention of the *rules* in *PRIN* 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).

#### Reference to "regulators" in Principle 11

3.4.5

R

Where *Principle 11* refers to regulators, this means, in addition to the *FCA*, other regulators with recognised jurisdiction in relation to *regulated activities*, *payment services* and *electronic money* whether in the *United Kingdom* or abroad.



## Chapter 4

# Principles: MiFID business

## 4.1 Principles: MiFID business

4.1.1 **G** ■ PRIN 3.1.6 R ensures that the *Principles* do not impose obligations upon *firms* which are inconsistent with an *EU* instrument. If a *Principle* does purport to impose such an obligation ■ PRIN 3.1.6 R disapplies that *Principle* but only to the extent necessary to ensure compliance with European law. This disapplication has practical effect only for certain matters covered by *MiFID*, which are explained in this section.

### Where?

4.1.2 **G** Under ■ PRIN 3.3.1 R, the territorial application of a number of *Principles* to a *UK MiFID investment firm* is extended to the extent that another applicable *rule* or *EU regulation* which is relevant to an activity has a wider territorial scope. Under ■ PRIN 3.1.1 R, the territorial application of a number of *Principles* to an *EEA MiFID investment firm* is narrowed to the extent that responsibility for the matter in question is reserved to the *firm's Home State regulator*. These modifications are relevant to *Principles* 1, 2, 3, 6, 7, 8, 9 and 10. We have added further *guidance* in *PERG* on the ability of a *Host State* to impose conduct of business requirements (see Q67).

4.1.3 **G** *Principles* 4, 5 and 11 will have the same scope of territorial application for *MiFID business* as for other business.

### What?

4.1.4 **G**

- (1) Certain requirements under *MiFID* are disapplied for:
  - (a) *eligible counterparty business*;
  - (b) transactions concluded under the rules governing a *multilateral trading facility* between its members or participants or between the *multilateral trading facility* and its members or participants in relation to the use of the *multilateral trading facility*;
  - (c) transactions concluded on a *regulated market* between its members or participants.
- (2) Under ■ PRIN 3.1.6 R, these disapplications may affect *Principles* 1, 2, 6 and 9. ■ PRIN 3.1.6 R applies only to the extent that the application of a *Principle* would be contrary to the *UK's* obligations under a *Single Market Directive* in respect of a particular transaction or matter. In line with *MiFID*, these limitations relating to *eligible counterparty business* and transactions under the rules of a *multilateral trading facility* or on a *regulated market* only apply in relation to a *firm's* conduct of business obligations to its clients under *MiFID*. They do not



limit the application of those *Principles* in relation to other matters, such as *client* asset protections, systems and controls, prudential requirements and market integrity. Further information about these limitations is contained in ■ COBS 1 Annex 1.

(3) *Principles* 3, 4, 5, 7, 8, 10 and 11 are not limited in this way.

4.1.5

G

[deleted]



## Principles for Businesses

### PRIN TP 1 Transitional provisions

	Material to which the transitional provision applies	Transitional Provision	Transitional Provision: dates in force	Handbook provision: coming into force
1.	PRIN 1 Annex 1 R 1.2(2) R	A <i>firm</i> need not comply with PRIN Ann 1R 1.2(2) in relation to an <i>eligible counterparty</i> if the <i>client</i> was correctly categorised as a <i>market counterparty</i> on 31 October 2007 and the <i>firm</i> complied with COB 4.1.12 R (2) (Large intermediate customer classified as market counterparty).	From 1 November 2007 indefinitely	1 November 2007



## Principles for Businesses

### Schedule 1 Record Keeping Requirements

#### Sch 1.1 G

There are no record keeping requirements in *PRIN*.



## Principles for Businesses

### Schedule 2 Notification requirements

#### Sch 2.1 G

The aim of the *guidance* in the following table is to give the reader a quick over-all view of the relevant requirements for notification and reporting.

It is not a complete statement of those requirements and should not be relied on as if it were.

#### Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
Principle 11 (PRIN 2.1.1 R)	Anything relating to the firm of which the <i>appropriate regulator</i> would reasonably expect notice	Appropriate disclosure	Anything relating to the firm of which the <i>appropriate regulator</i> would reasonably expect notice	Appropriate





## Principles for Businesses

### Schedule 3 Fees and other required payments

#### Sch 3.1 G

There are no requirements for fees or other payments in *PRIN*.



## Principles for Businesses

### Schedule 4 Powers Exercised

**Sch 4.1 G**  
[deleted]

**Sch 4.2 G**  
[deleted]



## Principles for Businesses

### Schedule 5 Rights of action for damages

#### Sch 5.1 G

The table below sets out the *rules* in *PRIN* contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

#### Sch 5.2 G

If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a "*private person*" under section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

#### Sch 5.3 G

The column headed "For other person?" indicates whether the *rule* may be actionable by a person other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

#### Sch 5.4 G

Chapter/ Appendix	Section/ Annex	Paragraph	Right of Action		
			For private person?	Removed?	For other person?
All rules in <i>PRIN</i>			No	Yes PRIN 3.4.4 R	No



## Principles for Businesses

### Schedule 6 Rules that can be waived

#### Sch 6.1A G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FCA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

