

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)).