

Chapter 3

Rules about application

3.4 General

Clients and the Principles

- 3.4.-1
- R
- PRIN 3.4.1R, ■ PRIN 3.4.2R and ■ PRIN 1 Annex 1 do not apply with respect to:
- (1) credit-related regulated activities; or

(2) regulated claims management activities; or

(3) regulated funeral plan activities; or

(4) payment services; or

(5) the issuing of *electronic money* (where not a *regulated activity*).

- 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
- [deleted]

Guarantors etc

- 3.4.3A
- R
- (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* and as if they were a *retail customer* for the purposes of *Principle 12* and ■ PRIN 2A.

(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.