

Chapter 3

Rules about application

3.2 What?

- 3.2.1A** **R** *PRIN* (other than *Principle 12* and **PRIN 2A**) 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*, *regulated funeral plan 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 <i>communicated</i> by a <i>firm</i> without contravening section 238(1) of the <i>Act</i> (Restrictions on promotion of collective investment schemes).
3.2.2-A	G	<i>PRIN</i> applies to the communication of promotions concerning <i>payment services</i> and <i>electronic money</i> .
3.2.2A	R	[deleted]
3.2.3	R	Subject to ■ PRIN 3.2.4R, <i>Principles</i> 3, 4 and (in so far as it relates to disclosing to the <i>FCA</i>) 11 (and this chapter) also: <ul style="list-style-type: none"> (1) apply to <i>firms</i> with respect to the carrying on of <i>unregulated activities</i> (for <i>Principle</i> 3 this is only in a <i>prudential context</i>); and (2) for <i>firms</i> and other <i>persons</i> that are subject to the <i>Principles</i>, take into account any activity of other members of a <i>group</i> of which the <i>firm</i> is a member.
3.2.4	R	In relation to an <i>Annex II benchmark administrator</i> which: <ul style="list-style-type: none"> (1) administers only <i>benchmarks</i> which are subject to Annex II to the <i>benchmarks regulation</i>; and (2) does not have <i>permission</i> to carry on any other <i>regulated activities</i> in relation to which <i>Principle</i> 11 applies, <p><i>Principle</i> 11 (in so far as it relates to disclosing to the <i>FCA</i>) applies only to the <i>regulated activity</i> of <i>administering a benchmark</i>.</p>
3.2.5	G	The <i>FCA</i> only expects an <i>Annex II benchmark administrator</i> subject to ■ PRIN 3.2.4R to disclose information under <i>Principle</i> 11 which is relevant to the <i>firm's</i> compliance with its obligations under the <i>benchmarks regulation</i> .
3.2.6	R	Principle 12 and PRIN 2A: additional application provisions <ul style="list-style-type: none"> (1) <i>Principle</i> 12 and ■ PRIN 2A apply to a <i>firm's retail market business</i>, including in respect of <i>existing products</i> and <i>closed products</i>. (2) (a) Subject to (b), <i>Principle</i> 12 and ■ PRIN 2A apply to a <i>firm</i> with respect to the <i>communication</i> or <i>approval</i> of a <i>financial promotion</i> (see ■ PRIN 3.2.2R), but only if the <i>financial promotion</i> is addressed to, or disseminated in such a way that it is likely to be received by, a <i>retail customer</i>. (b) <i>Principle</i> 12 and ■ PRIN 2A do not apply to the <i>communication</i> or <i>approval</i> of a <i>financial promotion</i> to the extent that the <i>financial promotion</i> relates to an activity that is excluded from the definition of <i>retail market business</i> by virtue of limbs (1) to (6) of that definition.

(3) If the *firm* is a *credit union*, and except insofar as *Principle 12* and ■ PRIN 2A apply by virtue of (2), then *Principle 12* and ■ PRIN 2A do not apply to the following activities:

- (a) *payment services* and activities connected to the provision of *payment services*, except where the activity is an *ancillary activity* in relation to a *regulated activity* other than *issuing electronic money*; and
- (b) activities connected to or *ancillary activities* in relation to *issuing electronic money*, but only insofar as the activity is not an *ancillary activity* in relation to another *regulated activity*.

3.2.7 **R** Where *Principle 12* and ■ PRIN 2A apply to the activities of a *firm* operating in a distribution chain, *Principle 12* and ■ PRIN 2A apply only to the extent that the *person* is responsible in the course of carrying out those activities for determining or materially influencing *retail customer* outcomes.

3.2.8 **R** Subject to ■ PRIN 3.2.7R, *Principle 12* and ■ PRIN 2A do not apply to activities to the extent that those activities are not included in a *rule* which sets out the scope of protections offered to *retail customers* by *COBS*, *ICOB*S, *MCOB*, *BCOB*S, *CMCOB*, *FPCOB*, *PROD* or *CONC*.

3.2.9 **G** [deleted]

Interaction between Principle 12 and Principles 6 and 7

3.2.10 **R** *Principles 6* and *7* do not apply to a *firm's* activities to the extent that *Principle 12* and ■ PRIN 2A apply.

3.2.11 **G** Activities to which *Principles 6* and *7* rather than *Principle 12* and ■ PRIN 2A may apply include, for example, services provided to *professional clients*.

3.2.12 **G** *Principle 12* and ■ PRIN 2A have a broader application than *Principles 6* and *7*, for example they apply to *firms* in the distribution chain for whom the *retail customer* may not be a *client*.