

## 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.