

Principles for Businesses

Chapter 1

Introduction

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.