



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 8A

SHORT SELLING

[^{F1}Power to require information

Textual Amendments

F1 Pt. 8A inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 8, 26(2)(b)

131E Power to require information

- (1) The [^{F2}FCA] may, by notice in writing, require a person ^{F3}...—
 - (a) to provide specified information or information of a specified description; or
 - (b) to produce specified documents or documents of a specified description.
- (2) This section applies only to information and documents that the [^{F2}FCA] reasonably requires for the purpose of [^{F4}the exercise by it of functions under the short selling regulation][^{F5}or to respond to a request referred to in subsection (5A)].
- (3) Information or documents required under this section must be provided or produced—
 - (a) before the end of such reasonable period as may be specified; and
 - (b) at such place as may be specified.
- (4) The [^{F2}FCA] may require any information provided under this section to be provided in such form as it may reasonably require.
- (5) The [^{F2}FCA] may require—
 - (a) any information provided, whether in a document or otherwise, to be verified in such manner as it may reasonably require; or
 - (b) any document produced to be authenticated in such manner as it may reasonably require.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Power to require information is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[The [^{F2}FCA's] powers under this section may be exercised on a request made in the ^{F6}(5A) exercise of [^{F7}relevant functions] by—

- [^{F8}(a) an overseas regulator, or]
- (b) ESMA.

^{F9}(5B)]

[^{F10}(6) In this section—

“overseas regulator” means—

- (a) the competent authority of an EEA State for the purposes of the short selling regulation, as that regulation has effect in the European Union (the “EU short selling regulation”); or
- (b) the authority of a third country which is not an EEA State which exercises functions corresponding to those of a competent authority under the EU short selling regulation;

“relevant functions” means—

- (a) in relation to a competent authority of an EEA State, its functions under the EU short selling regulation;
- (b) in relation to ESMA, its functions under the EU short selling regulation;
- (c) in relation to an authority of a third country which is not an EEA state, its functions corresponding to the functions referred to in paragraph (a);

“specified” means specified in the notice.]

^{F11}(7)

Textual Amendments

- F2** Word in Pt. 8A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 25(1)**, 122(3) (with s. 25(2), Sch. 20); S.I. 2013/423, art. 3, Sch.
- F3** Word in s. 131E(1) omitted (1.11.2012) by virtue of [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(3)(a)**
- F4** Words in s. 131E(2) substituted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(3)(b)**
- F5** Words in s. 131E(2) inserted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(2)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F6** S. 131E(5A)(5B) inserted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(3)(c)**
- F7** Words in s. 131E(5A) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(2)(b)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 131E(5A)(a) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(2)(b)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 131E(5B) omitted (31.12.2020) by virtue of [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(2)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F10** S. 131E(6) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(2)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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F11 S. 131E(7) omitted (1.11.2012) by virtue of [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(3)(d)**

131F Power to require information: supplementary

^{F12}(1)

- (2) If a document is produced in response to a requirement imposed under section 131E, the [^{F2}FCA] may—
- (a) take copies of or extracts from the document; or
 - (b) require the person producing the document, or any relevant person, to provide an explanation of the document.
- (3) In subsection (2)(b) “ relevant person ”, in relation to a person who is required to produce a document, means a person who—
- (a) has been or is or is proposed to be a director or controller of that person;
 - (b) has been or is an auditor of that person;
 - (c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or
 - (d) has been or is an employee of that person.
- (4) If a person who is required under section 131E to produce a document fails to do so, the [^{F2}FCA] may require the person to state, to the best of the person's knowledge and belief, where the document is.
- (5) A lawyer may be required under section 131E to provide the name and address of the lawyer's client.
- (6) A person (“P”) may not be required under section 131E to disclose information or produce a document in respect of which P owes an obligation of confidence by virtue of carrying on the business of banking unless—
- [^{F13}(a) the [^{F2}FCA] suspects that P or a member of P’s group has contravened any provision of the short selling regulation;]
 - [^{F13}(b) the [^{F2}FCA] suspects that the person to whom the obligation of confidence is owed or a member of that person’s group has contravened any provision of the short selling regulation; or]
 - (c) the person to whom the obligation of confidence is owed consents to the disclosure or production.

[Where the FCA is exercising its powers under section 131E in response to a request ^{F14}(6A) from an overseas regulator or ESMA, references to the short selling regulation are to be read as including the EU short selling regulation, within the meaning of section 131E(6).]

(7) If a person claims a lien on a document, its production under section 131E does not affect the lien.

Textual Amendments

F2 Word in Pt. 8A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 25(1)**, 122(3) (with s. 25(2), Sch. 20); S.I. 2013/423, art. 3, Sch.

F12 S. 131F(1) omitted (1.11.2012) by virtue of [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(4)(a)**

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- F13** S. 131F(6)(a)(b) substituted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(4)(b)**
- F14** S. 131F(6A) inserted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(3)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Investigations in support of [^{F16}overseas] regulator

- ^{F15}**131FA.**
- ^{F17}(1) The FCA may appoint one or more competent persons to investigate any matter if it is requested to do so by—
- (a) the competent authority of an EEA state acting in the exercise of its functions under the short selling regulation, as that regulation has effect in the European Union; or
 - (b) an authority of a third country which is not an EEA state which is acting in the exercise of functions corresponding to those referred to in paragraph (a).]
- ^{F18}(2)
- (3) Sections 170 to 177 (which relate to investigations) apply in relation to an investigator appointed under subsection (1) as they apply in relation to an investigator appointed under section 168(5).
 - (4) The [^{F2}FCA] may direct an investigator appointed under subsection (1) to permit a representative of [^{F19}the authority making the request under subsection (1) (“the requesting regulator”)] to attend, and take part in, any interview conducted for the purposes of the investigation.
 - (5) The [^{F2}FCA] is not to give a direction under subsection (4) unless it is satisfied that any information obtained by the [^{F20}requesting] regulator” as a result of the interview will be subject to safeguards equivalent to those contained in Part 23.
 - (6) The [^{F2}FCA] must prepare a statement of its policy with respect to the conduct of interviews in relation to which a direction under subsection (4) has been given.
 - (7) The statement requires the approval of the Treasury.
 - (8) If the Treasury approve the statement, the [^{F2}FCA] must publish it.
 - (9) No direction may be given under subsection (4) before the statement has been published.
 - (10) The [^{F2}FCA] may at any time alter or replace a statement issued under subsection (6), and subsections (7) and (8) apply to an altered statement or to a replacement statement.

Textual Amendments

- F2** Word in Pt. 8A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 25(1), 122(3)** (with s. 25(2), Sch. 20); S.I. 2013/423, art. 3, Sch.
- F15** Ss. 131FA-131FC inserted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(5)**
- F16** Word in s. 131FA heading substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(4)(e)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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- F17** S. 131FA(1) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(4)(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F18** S. 131FA(2) omitted (31.12.2020) by virtue of [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(4)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in s. 131FA(4) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(4)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in s. 131FA(5) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(4)(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

131FB. Entry of premises under warrant

- (1) A justice of the peace may issue a warrant under this section if satisfied on information on oath given by or on behalf of the [^{F2}FCA] that there are reasonable grounds for believing that the conditions in subsection (2) are satisfied.
- (2) The conditions are—
 - (a) that a relevant person on whom a requirement has been imposed under section 131E or 131F has failed (wholly or in part) to comply with it; and
 - (b) that on the premises specified in the warrant—
 - (i) there are documents which have been required; or
 - (ii) there is information which has been required.
- (3) A warrant under this section shall authorise a constable—
 - (a) to enter the premises specified in the warrant;
 - (b) to search the premises and take possession of any documents or information appearing to be documents or information of a kind in respect of which a warrant under this section was issued (“the relevant kind”) or to take, in relation to any such documents or information, any other steps which may appear to be necessary for preserving them or preventing interference with them;
 - (c) to take copies of, or extracts from, any documents or information appearing to be of the relevant kind;
 - (d) to require any person on the premises to provide an explanation of any document or information appearing to be of the relevant kind or to state where it may be found; and
 - (e) to use such force as may be reasonably necessary.
- (4) A warrant under this section may be executed by any constable.
- (5) The warrant may authorise persons to accompany any constable who is executing it.
- (6) The powers in subsection (3) may be exercised by a person authorised by the warrant to accompany a constable; but that person may exercise those powers only in the company of, and under the supervision of, a constable.
- (7) In England and Wales, sections 15(5) to (8) and 16(3) to (12) of the Police and Criminal Evidence Act 1984 (execution of search warrants and safeguards) apply to warrants issued under this section.

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(8) In Northern Ireland, Articles 17(5) to (8) and 18(3) to (12) of the Police and Criminal Evidence (Northern Ireland) Order 1989 apply to warrants issued under this section.

(9) In the application of this section to Scotland—

- (a) for the reference to a justice of the peace substitute a reference to a justice of the peace or a sheriff; and
- (b) for the references to information on oath substitute references to evidence on oath.

(10) The [F²FCA] may give information under subsection (1) or under section 176(1) at the request of an [F²¹overseas] regulator where the regulator makes the request in the exercise of [F²²relevant functions].

^{F23}(11)

(12) In this section—

[F²⁴“overseas regulator” and “relevant functions” have the meanings given in section 131E(6);]

“relevant person” means—

- (a) an authorised person,
- (b) a person who has been an authorised person,
- (c) a person who is for the purposes of section 165 connected with an authorised person or with a person within paragraph (b).

Textual Amendments

F2 Word in Pt. 8A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 25(1)**, 122(3) (with s. 25(2), Sch. 20); S.I. 2013/423, art. 3, Sch.

F15 Ss. 131FA-131FC inserted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(5)**

F21 Word in s. 131FB(10) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(5)(a)(i)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F22 Words in s. 131FB(10) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(5)(a)(ii)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F23 S. 131FB(11) omitted (31.12.2020) by virtue of [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(5)(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

F24 Words in s. 131FB(12) substituted (31.12.2020) by [The Short Selling \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1321\)](#), regs. 1(2), **2(5)(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

131FC. Retention of documents taken under section 131FB

- (1) Any document of which possession is taken under section 131FB (“a seized document”) may be retained so long as it is necessary to retain it (rather than copies of it) in the circumstances.
- (2) A person claiming to be the owner of a seized document may apply to a magistrates’ court or (in Scotland) the sheriff for an order for the delivery of the document to the person appearing to the court or sheriff to be the owner.

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- (3) If on an application under subsection (2) the court or (in Scotland) the sheriff cannot ascertain who is the owner of the seized document the court or sheriff (as the case may be) may make such order as the court or sheriff thinks fit.
- (4) An order under subsection (2) or (3) does not affect the right of any person to take legal proceedings against any person in possession of a seized document for the recovery of the document.
- (5) Any right to bring proceedings (as described in subsection (4)) may only be exercised within 6 months of the date of the order made under subsection (2) or (3).]]

Textual Amendments

- F15** Ss. 131FA-131FC inserted (1.11.2012) by [The Financial Services and Markets Act 2000 \(Short Selling\) Regulations 2012 \(S.I. 2012/2554\)](#), regs. 1(1), **2(5)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))