



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 9A

RULES AND GUIDANCE

CHAPTER 2

RULES: MODIFICATION, WAIVER, CONTRAVENTION AND PROCEDURAL PROVISIONS

Contravention of rules

[^{F1}138C Evidential provisions

- (1) If a particular rule made by either regulator so provides, contravention of the rule does not give rise to any of the consequences provided for by other provisions of this Act.
- (2) A rule made by a regulator which so provides must also provide—
 - (a) that contravention may be relied on as tending to establish contravention of such other rule made by that regulator as may be specified, or
 - (b) that compliance may be relied on as tending to establish compliance with such other rule made by that regulator as may be specified.
- (3) A rule may include the provision mentioned in subsection (1) only if the regulator making the rule considers that it is appropriate for it also to include the provision required by subsection (2).
- (4) In this section “rule” does not include a rule made under—
 - (a) section 137O (threshold condition code);
 - (b) section 192J (provision of information by parent undertakings).]

Changes to legislation: Financial Services and Markets Act 2000, Section 138C is up to date with all changes known to be in force on or before 16 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

Textual Amendments

- F1** Pt. 9A substituted for ss. 138-164 (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 24(1)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/113](#), [art. 2\(1\)\(c\)](#), [Sch. Pt. 3](#); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

Modifications etc. (not altering text)

- C1** Pt. 9A Ch. 2 applied (with modifications) by [S.I. 2011/99](#), **Sch. 3 para. 2A(2)(3)** (as inserted (13.8.2017 for specified purposes, 13.10.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), [reg. 1\(2\)\(c\)\(iii\)\(3\)\(f\)\(i\)\(6\)](#), **Sch. 8 para. 5(31)(a)** (with [reg. 3](#)) and as amended (18.9.2023) by [The Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023 \(S.I. 2023/790\)](#), [regs. 1\(2\)\(a\)](#), **2(3)(a)(iii)-(v)**)
- C2** Pt. 9A Ch. 2 applied (with modifications) (13.8.2017 for specified purposes, 13.1.2018 in so far as not already in force) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), [reg. 1\(2\)\(b\)\(ii\)\(6\)](#), **Sch. 6 para. 3(2)** (with [reg. 3](#)) (as amended (18.9.2023) by [The Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023 \(S.I. 2023/790\)](#), [regs. 1\(2\)\(a\)](#), **4(5)(a)(iii)**)
- C3** Pt. 9A Ch. 2 applied in part (1.7.2021) by [Regulation \(EU\) No. 600/2014](#), [Art. 50D](#) (as inserted by [Financial Services Act 2021 \(c. 22\)](#), [s. 49\(5\)](#), **Sch. 10 para. 12** (with [Sch. 10 para. 13](#)); [S.I. 2021/739](#), [reg. 3\(o\)](#))
- C4** Pt. 9A applied (1.7.2021) by [Regulation \(EU\) No. 600/2014](#), [Art. 49A\(12\)](#) (as inserted by [Financial Services Act 2021 \(c. 22\)](#), [s. 49\(5\)](#), **Sch. 10 para. 9**; [S.I. 2021/739](#), [reg. 3\(o\)](#))
- C5** [S. 138C](#) applied (1.7.2021) by [Regulation \(EU\) No. 648/2012](#), [Art. 84b\(1\)\(2\)](#) (as inserted by [Financial Services Act 2021 \(c. 22\)](#), **ss. 40(4)**, 49(5); [S.I. 2021/739](#), [reg. 3\(v\)](#))
- C6** [S. 138C](#) applied (8.6.2023 for specified purposes, 7.10.2023 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), [art. 1\(2\)](#), **Sch. para. 1(e)** (with [art. 11](#))
- C7** [S. 138C](#) applied (with modifications) (29.8.2023) by [Regulation \(EU\) No. 648/2012](#), [Art. 84c](#) (as inserted by [Financial Services and Markets Act 2023 \(c. 29\)](#), [s. 86\(3\)](#), **Sch. 2 para. 30** (with [s. 2\(3\)](#)); [S.I. 2023/779](#), [reg. 4\(zz\)\(ii\)](#))
- C8** [S. 138C](#) applied (with modifications) (18.9.2023) by [S.I. 2017/752](#), **Sch. 6 para. 3(2A)** (as inserted by [The Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023 \(S.I. 2023/790\)](#), [regs. 1\(2\)\(a\)](#), **4(5)(a)(iv)**)
- C9** [S. 138C](#) applied (with modifications) (18.9.2023) by [S.I. 2011/99](#), **Sch. 3 para. 2A(2A)** (as inserted by [The Electronic Money, Payment Card Interchange Fee and Payment Services \(Amendment\) Regulations 2023 \(S.I. 2023/790\)](#), [regs. 1\(2\)\(a\)](#), **2(3)(a)(iv)**)
- C10** [S. 138C](#) applied (30.1.2024 for specified purposes) by [The Securitisation Regulations 2024 \(S.I. 2024/102\)](#), [reg. 2\(1\)\(e\)\(2\)](#), **Sch. 1 para. 9(2)(c)** (with [reg. 52\(3\)](#), [Sch. 3](#))

Changes to legislation:

Financial Services and Markets Act 2000, Section 138C is up to date with all changes known to be in force on or before 16 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.

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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))