



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}138D Actions for damages

- (1) A rule made by the PRA may provide that contravention of the rule is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (2) A contravention by an authorised person of a rule made by the FCA is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (3) If rules made by the FCA so provide, subsection (2) does not apply to a contravention of a specified provision of the rules.
- (4) In prescribed cases, a contravention of a rule which by virtue of subsection (1) or (2) would be actionable at the suit of a private person is actionable at the suit of a person who is not a private person, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (5) In subsections (1), (2) and (3) “rule” does not include—
 - [rules under section 64A (rules of conduct);]
^{F2}(za)
 - (a) Part 6 rules;

Status: Point in time view as at 25/07/2014. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 138D is up to date with all changes known to be in force on or before 10 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)

- (b) rules under section 137O (threshold condition code);
 - (c) rules under section 192J (provision of information by parent undertakings);
 - (d) a rule requiring an authorised person to have or maintain financial resources.
- (6) “Private person” has such meaning as may be prescribed.]

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.](#)
- F2** S. 138D(5)(za) inserted (25.7.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(5), **Sch. 3 para. 9**; S.I. 2014/1819, art. 2(4)(b)

Modifications etc. (not altering text)

- C1** S. 138D applied by S.R. 2004/335, reg. 25(6) (as amended) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 87(6)**
- C2** S. 138D modified by S.I. 2002/1775, reg. 3(2)(a) (as amended) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 77(4)(b)**

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