



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### [<sup>F1</sup>PART 9A

#### RULES AND GUIDANCE

### CHAPTER 2

#### RULES: MODIFICATION, WAIVER, CONTRAVENTION AND PROCEDURAL PROVISIONS

##### *Procedural provisions*

#### [<sup>F1</sup>138L Consultation: general exemptions

- (1) Sections 138I(1)(b) and (2) to (5) and 138K do not apply in relation to rules made by the FCA if the FCA considers that the delay involved in complying with them would be prejudicial to the interests of consumers, as defined in section 425A.
- (2) Sections 138J(1)(b) and (2) to (5) and 138K do not apply in relation to rules made by the PRA if the PRA considers that the delay involved in complying with them would—
  - (a) be prejudicial to the safety and soundness of PRA-authorised persons, or
  - (b) in a case where section 2C applies, be prejudicial to securing the appropriate degree of protection for policyholders.
- (3) The provisions listed in subsection (4) do not apply if the regulator concerned considers that, making the appropriate comparison—
  - (a) there will be no increase in costs, or
  - (b) there will be an increase in costs but that increase will be of minimal significance.
- (4) Those provisions are—
  - (a) subsections (2)(a) and (5)(a) of section 138I;
  - (b) subsections (2)(a) and (5)(a) of section 138J.

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- (5) The “appropriate comparison” means—
- (a) in relation to section 138I(2)(a) or 138J(2)(a), a comparison between the overall position if the rules are made and the overall position if the rules are not made;
  - (b) in relation to section 138I(5)(a) or 138J(5)(a), a comparison between the overall position after the making of the rules and the overall position before they were made.]

### 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) (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)**)
- C2** 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)**)
- C3** Pt. 9A Ch. 2 applied (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **209(6)** (with reg. 209(7)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- C4** Pt. 9A Ch. 2 applied (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **208(7)** (with reg. 208(8)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- C5** Pt. 9A applied (with modifications) (31.12.2020) by [The Transparency of Securities Financing Transactions and of Reuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/542\)](#), regs. 1, **35** (as amended by S.I. 2020/1385, regs. 1(4), **56(7)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- C6** Pt. 9A applied (31.12.2020) by [The Solvency 2 and Insurance \(Amendment, etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/407\)](#), regs. 1(2), 4, **Sch. 3** (as amended by S.I. 2020/1301, regs. 1, 3, [Sch. para. 27\(a\)](#) and S.I. 2020/1385, regs. 1(2), 54(2))
- C7** Pt. 9A applied (with modifications) (31.12.2020) by [The Over the Counter Derivatives, Central Counterparties and Trade Repositories \(Amendment, etc., and Transitional Provision\) \(EU Exit\) Regulations 2019 \(S.I. 2019/335\)](#), regs. 1(1), **74** (as amended by S.I. 2020/1385, regs. 1(4), **52(7)**) (with savings in S.I. 2019/680, **reg. 11**); 2020 c. 1, **Sch. 5 para. 1(1)**
- C8** 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))
- C9** 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))
- C10** Ss. 138I-138L applied (with modifications) (22.7.2013) by [The Alternative Investment Fund Managers \(Amendment\) Regulations 2013 \(S.I. 2013/1797\)](#), regs. 1(2), **6(3)-(7)** (with reg. 6(2)) (as amended (31.12.2020) by S.I. 2019/328, regs. 1(3), **19(1)** (which is itself amended by S.I. 2019/325, **reg. 58**); 2020 c. 1, **Sch. 5 para. 1(1)**)

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- C11** Ss. 138F-138O applied by S.I. 2018/1201, Sch. 3 para. 12K(3) (as inserted (1.3.2019) by The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/405), regs. 1(2), **10(2)**)
- C12** Ss. 138F-138O applied by S.I. 2018/1201, reg. 35(3) (as inserted (1.3.2019) by The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/405), regs. 1(2), **10(3)**)
- C13** Ss. 138F-138O applied by S.I. 2018/1149, reg. 63(3) (as inserted (1.3.2019) by The Financial Services Contracts (Transitional and Saving Provision) (EU Exit) Regulations 2019 (S.I. 2019/405), regs. 1(2), **3**)
- C14** Ss. 138F-138O applied (31.12.2020) by The Electronic Commerce and Solvency 2 (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1361), regs. 1(2), **23(3)** (as amended by S.I. 2019/1390, regs. 1(2), 6); 2020 c. 1, Sch. 5 para. 1(1)
- C15** S. 138L 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)**)
- C16** S. 138L applied (with modifications) (1.7.2021) by Regulation (EU) No. 1286/2014, Art. 4A(2)(3) (as inserted by Financial Services Act 2021 (c. 22), **ss. 38(2)**, 49(5) (with s. 38(3)); S.I. 2021/739, reg. 3(t))
- C17** S. 138L applied in part (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))
- C18** S. 138L 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)(f)** (with reg. 52(3), Sch. 3)
- C19** S. 138L(1)(2) modified by S.I. 2008/2666, art. 19(1) (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. 148(c)(i)**
- C20** S. 138L(1)(2) modified by S.I. 2009/3226, art. 21(1) (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. 182(b)(i)**
- C21** S. 138L(1)(2) modified by S.I. 2008/2674, art. 30(1) (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. 149(c)(i)**
- C22** S. 138L(1)(2) modified by S.I. 2008/2546, art. 38(1) (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. 146(d)(i)**
- C23** S. 138L(1)(2) modified by S.I. 2008/2644, art. 28(1) (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. 147(c)(i)**
- C24** S. 138L(1)(2) modified by S.I. 2008/432, art. 16(1) (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. 136(e)(aa)(i)**
- C25** S. 138L(1)(2) modified by S.I. 2009/814, art. 10(1) (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. 167(c)(i)**
- C26** S. 138L(1) modified (13.1.2018) by The Payment Services Regulations 2017 (S.I. 2017/752), reg. 1(6), **Sch. 7 para. 3(1)** (with reg. 3)
- C27** S. 138L(1) modified by S.I. 2011/99, Sch. 5 para. 3(1) (as inserted (13.1.2018) by The Payment Systems and Services and Electronic Money (Miscellaneous Amendments) Regulations 2017 (S.I. 2017/1173), regs. 1(4), **5(d)**)

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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))