

# FINANCIAL SERVICES ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS AND SCHEDULES

#### *Recovery and resolution plans (RRPs)*

#### *Section 7: Rules made by FSA about recovery and resolution plans*

#### **New section 139D – Sections 139B and 139C: interpretation**

96. *Subsection (1)* clarifies that references in new section 139B and new section 139C (see subsection (3) in each case) to taking action include action not only by the authorised person but by other members of the same group or partnership of which it is a member. This is to ensure that the duties in subsection (1) of new sections 139B and 139C include a duty to make rules requiring a recovery or resolution plan, as the case may be, to include specified information relating to action to be taken by other members of the group or partnership of which the authorised person is a member. For this purpose, the wide meaning of “group” in section 421(1) of FSMA is narrowed by *subsection (2)* to exclude entities of which the authorised person (or other members of its group) may not necessarily have majority ownership or control.
97. *Subsection (3)* sets out some of the scenarios that constitute ‘failure’ of an authorised person for the purposes of new section 139C which the FSA may require to be covered in a resolution plan.
98. *Subsection (4)* widens the potential scope of a recovery or resolution plan by providing that the references in section 139B (see subsections (3) and (4)) and section 139C (see subsection (3)) to the “business” of the authorised person include the business of other persons in its group (including a holding company) or a partnership of which it is a member.
99. *Subsection (5)* provides that the term “specified” which is used in new sections 139B and C, means “specified” in general rules made by the FSA.
100. *Subsection (6)* makes clear that the references in new section 139D to “insolvency” and “administration” include the new procedures in Parts 2 and 3 respectively of the Banking Act 2009.