

FINANCIAL SERVICES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Short selling

Section 8: Power of FSA to prohibit, or require disclosure of, short selling

New section 131F: Power to require information: supplementary

136. This section contains provisions corresponding to the provisions of section 175 of FSMA.
137. *Subsection (1)* enables the FSA to compel the production of a document by a person who is holding a document on behalf of another person if they would have the power to compel the latter to produce the document under new section 131E. Under *subsection (2)* a document, once obtained under new section 131E, may be copied or have extracts taken from it, and the person producing the document, or any other relevant person, may be required to explain it. *Subsection (3)* defines “relevant person” for these purposes.
138. Under *subsection (4)*, if any person required to produce a document fails to do so, they may be compelled to state where, to the best of their knowledge, the document is. Under *subsection (5)* lawyers may be compelled to provide the name and address of their clients.
139. Under *subsection (6)* documents subject to banking confidentiality may be withheld unless the person holding the information, or the person to whom the duty of confidence is owed, is the person under investigation or a related company, or the person to whom the duty is owed consents to its disclosure. *Subsection (7)* provides that the production of a document does not affect any lien a third party may have over it.