



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 9A

RULES AND GUIDANCE

CHAPTER 1

RULE-MAKING POWERS

[^{F1}General rule-making powers of the FCA and the PRA

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.](#)

137A The FCA's general rules

- (1) The FCA may make such rules applying to authorised persons—
 - (a) with respect to the carrying on by them of regulated activities, or
 - (b) with respect to the carrying on by them of activities which are not regulated activities,as appear to the FCA to be necessary or expedient for the purpose of advancing one or more of its operational objectives.
- (2) Rules made under this section are referred to in this Act as the FCA's general rules.
- (3) The FCA's general rules may make provision applying to authorised persons even though there is no relationship between the authorised persons to whom the rules will apply and the persons whose interests will be protected by the rules.

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Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: General rule-making powers of the FCA and the PRA is up to date with all changes known to be in force on or before 22 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)

- (4) The FCA's general rules may contain requirements which take into account, in the case of an authorised person who is a member of a group, any activity of another member of the group.

^{F2}(5)

[The FCA's general rules may not modify, amend or revoke any retained direct EU ^{F3}(6) legislation (except retained direct EU legislation which takes the form of FCA rules).]

Textual Amendments

- F2** S. 137A(5) omitted (31.12.2020) by virtue of [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1149), reg. 1(3), **Sch. para. 9** (with reg. 4); 2020 c. 1, Sch. 5 para. 1(1)
- F3** S. 137A(6) inserted (26.10.2018) by [The Financial Regulators Powers \(Technical Standards etc.\) \(Amendment etc.\) \(EU Exit\) Regulations 2018](#) (S.I. 2018/1115), regs. 1(2), **7(6)**

Modifications etc. (not altering text)

- C1** S. 137A modified by S.I. 2008/2674, art. 29(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 149(b)(i)**)
- C2** S. 137A modified by S.I. 2008/2644, art. 27(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 147(b)(i)**)
- C3** S. 137A modified by S.I. 2008/432, art. 15(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 136(d)(i)**)
- C4** S. 137A modified by S.I. 2008/2546, art. 37(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 146(c)(i)**)
- C5** S. 137A modified by S.I. 2008/2666, art. 18(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 148(b)(i)**)
- C6** S. 137A power to make rules modified by S.I. 2002/1775, **reg. 3(1)(4)** (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)(a)**)
- C7** S. 137A 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(1)** (with reg. 3) (as amended by S.I. 2018/1201, reg. 1(3), Sch. 2 para. 72(2) (with reg. 4, **Sch. 3 Pt. 2**) (as amended by S.I. 2020/56, regs. 1, **8**))
- C8** S. 137A applied (with modifications) by S.I. 2011/99, **Sch. 3 para. 2A(1)** (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))
- C9** S. 137A(1) modified by S.I. 2009/3226, art. 20(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 182(a)(i)**)
- C10** S. 137A(1) modified by S.I. 2009/814, art. 9(1) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), **Sch. 2 para. 167(b)(i)**)

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C11 S. 137A(3)(4) 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\(4\)\(b\)](#)

137B FCA general rules: clients' money, right to rescind etc.

- (1) Rules relating to the handling of money held by an authorised person in specified circumstances (“clients' money”) may—
 - (a) make provision which results in that clients' money being held on trust in accordance with the rules,
 - (b) treat 2 or more accounts as a single account for specified purposes (which may include the distribution of money held in the accounts),
 - (c) authorise the retention by the authorised person of interest accruing on the clients' money, and
 - (d) make provision as to the distribution of such interest which is not to be retained by the authorised person.
- (2) An institution with which an account is kept in pursuance of rules relating to the handling of clients' money does not incur any liability as constructive trustee if the money is wrongfully paid from the account, unless the institution permits the payment—
 - (a) with knowledge that it is wrongful, or
 - (b) having deliberately failed to make enquiries in circumstances in which a reasonable and honest person would have done so.
- (3) Rules may—
 - (a) confer rights on persons to rescind agreements with, or withdraw offers to, authorised persons within a specified period, and
 - (b) make provision, in respect of authorised persons and persons exercising those rights, for the restitution of property and the making or recovery of payments where those rights are exercised.
- (4) “Rules” means general rules of the FCA.
- (5) “Specified” means specified in the rules.

137C FCA general rules: cost of credit and duration of credit agreements

- (1) The power of the FCA to make general rules includes power to make rules prohibiting authorised persons from—
 - (a) entering into a regulated credit agreement that provides for—
 - (i) the payment by the borrower of charges of a specified description, or
 - (ii) the payment by the borrower over the duration of the agreement of charges that, taken with the charges paid under one or more other agreements which are treated by the rules as being connected with it, exceed, or are capable of exceeding, a specified amount;
 - (b) imposing charges of a specified description or exceeding a specified amount on a person who is the borrower under a regulated credit agreement;
 - (c) entering into a regulated credit agreement that—
 - (i) is capable of remaining in force after the end of a specified period,

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- (ii) when taken with one or more other regulated credit agreements which are treated by the rules as being connected with it, would be capable of remaining in force after the end of a specified period, or
 - (iii) is treated by the rules as being connected with a number of previous regulated credit agreements that exceeds a specified maximum;
 - (d) exercising the rights of the lender under a regulated credit agreement (as a person for the time being entitled to exercise them) in a way that enables the agreement to remain in force after the end of a specified period or enables the imposition on the borrower of charges within paragraph (a)(i) or (ii).
- [The FCA must make rules by virtue of subsection (1)(a)(ii) and (b) in relation to one
- ^{F4}(1A) or more specified descriptions of regulated credit agreement appearing to the FCA to involve the provision of high-cost short-term credit, with a view to securing an appropriate degree of protection for borrowers against excessive charges.
- (1B) Before the FCA publishes a draft of any rules to be made by virtue of subsection (1) (a)(ii) or (b), it must consult the Treasury.]
- (2) “Charges” means charges payable, by way of interest or otherwise, in connection with the provision of credit under the regulated credit agreement, whether or not the agreement itself makes provision for them and whether or not the person to whom they are payable is a party to the regulated credit agreement or an authorised person.
 - (3) “The borrower” includes—
 - (a) any person providing a guarantee or indemnity under the regulated credit agreement, and
 - (b) a person to whom the rights and duties of the borrower under the regulated credit agreement or a person falling within paragraph (a) have passed by assignment or operation of law.
 - (4) In relation to an agreement entered into or obligation imposed in contravention of the rules, the rules may—
 - (a) provide for the agreement or obligation to be unenforceable against any person or specified person;
 - (b) provide for the recovery of any money or other property paid or transferred under the agreement or other obligation by any person or specified person;
 - (c) provide for the payment of compensation for any loss sustained by any person or specified person as a result of paying or transferring any money or other property under the agreement or obligation.
 - (5) The provision that may be made as a result of subsection (4) includes provision corresponding to that made by section 30 (enforceability of agreements resulting from unlawful communications).
 - (6) A credit agreement is a contract of the kind mentioned in paragraph 23 of Schedule 2, other than one under which the obligation of the borrower to repay is secured on land: and a credit agreement is a “regulated credit agreement” if any of the following is a regulated activity—
 - (a) entering into or administering the agreement;
 - (b) exercising or being able to exercise the rights of the lender under the agreement.
 - (7) In this section—

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- (a) “specified amount” means an amount specified in or determined in accordance with the rules;
- (b) “specified period” means a period of a duration specified in or determined in accordance with the rules;
- (c) “specified person” means a person of a description specified in the rules;
- (d) subject to that, “specified” means specified in the rules.

Textual Amendments

F4 S. 137C(1A)(1B) inserted (18.2.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), **ss. 131(1), 148(2)** (with s. 131(3))

137D FCA general rules: product intervention

- (1) The power of the FCA to make general rules includes power to make such rules (“product intervention rules”) prohibiting authorised persons from doing anything mentioned in subsection (2) as appear to it to be necessary or expedient for the purpose of advancing—
 - (a) the consumer protection objective or the competition objective, or
 - (b) if the Treasury by order provide for this paragraph to apply, the integrity objective.
- (2) Those prohibited things are—
 - (a) entering into specified agreements with any person or specified person;
 - (b) entering into specified agreements with any person or specified person unless requirements specified in the rules have been satisfied;
 - (c) doing anything that would or might result in the entering into of specified agreements by persons or specified persons, or the holding by them of a beneficial or other kind of economic interest in specified agreements;
 - (d) doing anything within paragraph (c) unless requirements specified in the rules have been satisfied.
- (3) “Specified agreements” means agreements of a description specified in general rules made by the FCA.
- (4) “Specified persons” means persons of a description specified in general rules made by the FCA.
- (5) It is of no relevance—
 - (a) whether the entering into of a specified agreement itself constitutes the carrying on of a regulated activity, or
 - (b) whether, in a case within subsection (2)(c) or (d), the specified agreements are with the authorised persons concerned or anyone else.
- (6) The requirements that may be specified under subsection (2)(b) or (d) include in particular—
 - (a) requirements as to the terms and conditions that are to be, or are not to be, included in specified or other agreements, and
 - (b) requirements limiting invitations or inducements to enter into specified or other agreements to those made to specified persons.

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- (7) In relation to contraventions of product intervention rules, the rules may—
- (a) provide for a relevant agreement or obligation to be unenforceable against any person or specified person;
 - (b) provide for the recovery of any money or other property paid or transferred under a relevant agreement or obligation by any person or specified person;
 - (c) provide for the payment of compensation for any loss sustained by any person or specified person as a result of paying or transferring any money or other property under a relevant agreement or obligation.
- (8) “A relevant agreement or obligation” means—
- (a) a specified agreement;
 - (b) an agreement entered into in contravention of any rule made as a result of subsection (2)(c) or (d);
 - (c) an obligation to which a person is subject as a result of exercising a right conferred by an agreement within paragraph (a) or (b) of this subsection.
- (9) The provision that may be made as a result of subsection (7) includes provision corresponding to that made by section 30 (enforceability of agreements resulting from unlawful communications).
- (10) In this section—
- (a) any reference to entering into an agreement includes inviting or inducing persons to enter into an agreement, and
 - (b) any reference to an agreement includes an arrangement.

Modifications etc. (not altering text)

C12 S. 137D applied (1.4.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **13(1)**

C13 S. 137D applied (1.4.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), arts. 1(2), **13(1)**

137E Orders under s.137D(1)(b)

- (1) No order may be made under section 137D(1)(b) unless—
- (a) a draft of the order has been laid before Parliament and approved by a resolution of each House, or
 - (b) subsection (3) applies.
- (2) Subsection (3) applies if an order under section 137D(1)(b) contains a statement that the Treasury are of the opinion that, by reason of urgency, it is necessary to make the order without a draft being so laid and approved.
- (3) Where this subsection applies the order—
- (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect at the end of the relevant period unless before the end of that period the order is approved by a resolution of each House of Parliament (but without that affecting anything done under the order or the power to make a new order).

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- (4) The “relevant period” is a period of 28 days beginning with the day on which the order is made.
- (5) In calculating the relevant period no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

137F Rules requiring participation in benchmark

- (1) The power of the FCA to make general rules includes power to make rules requiring authorised persons to take specified steps in connection with the setting by a specified person of a specified benchmark.
- (2) The rules may in particular—
 - (a) require authorised persons to whom the rules apply to provide information of a specified kind, or expressions of opinion as to specified matters, to persons determined in accordance with the rules;
 - (b) make provision about the form in which and the time by which any information or expression of opinion is to be provided;
 - (c) make provision by reference to any code or other document published by the person responsible for the setting of the benchmark or by any other person determined in accordance with the rules, as the code or other document has effect from time to time.
- (3) Rules making provision of the kind mentioned in subsection (2)(c) may provide that the code or other document is to be capable of affecting obligations imposed by the rules only if specified requirements are met in relation to it.

- (4) In this section—

[^{F5}“benchmark” means a benchmark within the meaning of section 22^{F6}... (6A);]

“specified” means specified in or determined in accordance with the rules.

Textual Amendments

F5 Words in s. 137F(4) substituted (27.2.2018) by [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2), **43(a)**

F6 Words in s. 137F(4) omitted (1.5.2020) by virtue of [The Financial Services and Markets Act 2000 \(Benchmarks\) Regulations 2018 \(S.I. 2018/135\)](#), regs. 1(2)(b), **43(b)**

[^{F7}137FA costs etc FCA general rules: disclosure of information about pension scheme transaction

- (1) The FCA must make general rules requiring information about some or all of the transaction costs of a relevant scheme to be given to some or all of the persons mentioned in subsection (2).
- (2) Those persons are—
 - (a) members of the scheme,
 - (b) spouses or civil partners of members, and

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- (c) persons within the application of the scheme and qualifying or prospectively qualifying for its benefits.
- (3) The FCA must make general rules requiring the publication of information about—
- (a) some or all of the transaction costs of a relevant scheme, and
 - (b) some or all of the administration charges imposed on members of a relevant scheme.
- (4) Rules made by virtue of subsection (3) may require other relevant information to be published along with information about transaction costs or administration charges in relation to a scheme.
- (5) “Other relevant information” means other information which would or may assist in making comparisons between those costs or charges and costs or charges in relation to other schemes.
- (6) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
- (a) the Secretary of State, and
 - (b) the Treasury.
- (7) In determining what provision to include in the rules, the FCA must have regard to any regulations about the disclosure or publication of transaction costs or administration charges that are for the time being in force under section 113 of the Pension Schemes Act 1993.
- (8) In this section—
- “administration charge” has the meaning given by paragraph 1(5) of Schedule 18 to the Pensions Act 2014;
- “money purchase scheme” has the meaning given by section 181(1) of the Pension Schemes Act 1993;
- “personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993;
- “relevant scheme” means a money purchase scheme that is—
- (a) a personal pension scheme where direct payment arrangements (within the meaning of section 111A of the Pension Schemes Act 1993) exist in respect of one or more members of the scheme who are workers, or
 - (b) a personal pension scheme which is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (stakeholder pension schemes);
- “worker” means a person—
- (a) who is a worker for the purposes of Part 1 of the Pensions Act 2008, or
 - (b) to whom a provision of Part 1 of that Act applies as if the person were a worker because of a provision of Chapter 8 of that Part;
- but for the purposes of paragraph (b), ignore section 92 of that Act.]

Textual Amendments

F7 S. 137FA inserted (18.9.2017) by [Pensions Act 2014 \(c. 19\)](#), [ss. 44\(2\), 56\(1\)](#); [S.I. 2017/916](#), [reg. 2\(1\)](#) (with [reg. 2\(2\)](#))

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F8 137FB FCA general rules: disclosure of information about the availability of pensions guidance

- (1) The FCA must make general rules requiring information about the availability of pensions guidance to be given by the trustees or managers of a relevant pension scheme to members of the scheme, and survivors of members of the scheme, with subsisting rights in respect of any flexible benefits.
- (2) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
 - (a) the Secretary of State, and
 - (b) the Treasury.
- (3) In determining what provision to include in the rules, the FCA must have regard to any regulations that are for the time being in force under section 113 of the Pension Schemes Act 1993 concerning the giving of information about the availability of pensions guidance to members of pension schemes, and survivors of members of pension schemes, with subsisting rights in respect of any flexible benefits.
- (4) In this section—

“flexible benefit” has the meaning given by section 74 of the Pension Schemes Act 2015;

[^{F9}“pensions guidance” means information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes);]

“relevant pension scheme” means a pension scheme set up by a person with permission under this Act to establish—

- (a) a personal pension scheme within the meaning of an order under section 22, or
- (b) a stakeholder pension scheme within the meaning of such an order;

“subsisting right” has the meaning given by section 76 of the Pension Schemes Act 2015;

“survivor” has the meaning given by section 76 of the Pension Schemes Act 2015.]

Textual Amendments

- F8** S. 137FB inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(a), [Sch. 3 para. 6](#) (with s. 87, [Sch. 3 para. 18\(1\)](#))
- F9** Words in s. 137FB(4) substituted (1.1.2019) by [Financial Guidance and Claims Act 2018 \(c. 10\)](#), [ss. 18\(7\)](#), [37\(5\)](#); [S.I. 2018/1330](#), [reg. 2\(f\)](#)

F10 137FB FCA general rules: advice about transferring or otherwise dealing with annuity payments

- (1) The FCA must make general rules requiring specified authorised persons to check that an individual—
 - (a) who has a right to payments under a relevant annuity, and
 - (b) if the Treasury make regulations under subsection (3), who is not an exempt person by virtue of those regulations,

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has received appropriate advice before transferring or otherwise dealing with the right to those payments.

- (2) The reference in subsection (1) to a right to payments under a relevant annuity does not include a contingent right to such payments.
- (3) The Treasury may by regulations provide that an individual whose financial circumstances meet criteria specified in the regulations is an exempt person for the purposes of subsection (1)(b).
- (4) Regulations made under subsection (3) may (amongst other things) specify criteria based on the proportion of the individual's financial resources that is represented by the payments under the relevant annuity or the value of that annuity.
- (5) The rules made by virtue of subsection (1) may include provision—
 - (a) about what specified authorised persons must do to check that an individual has received appropriate advice for the purposes of those rules;
 - (b) about when the check must be carried out.
- (6) For the purposes of this section—
 - (a) “relevant annuity” means an annuity specified (by type, value or otherwise) as a relevant annuity in regulations made by the Treasury;
 - (b) “appropriate advice” means advice specified (by reference to the person giving the advice or otherwise) as appropriate advice in regulations made by the Treasury;
 - (c) “specified authorised person” means an authorised person of a description specified in rules made by virtue of subsection (1).
- (7) If regulations under subsection (3) or (6)(a) make provision about the value of an annuity, the regulations may also make provision about the basis on which the value of an annuity is to be calculated.]

Textual Amendments

F10 S. 137FBA inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\), ss. 33\(2\), 41\(3\); S.I. 2016/627, reg. 2\(1\)\(x\)](#)

F11 **FCA general rules: early exit pension charges**

137FBB

- (1) The FCA must make general rules prohibiting authorised persons from—
 - (a) imposing specified early exit charges on members of relevant pension schemes, and
 - (b) including in relevant pension schemes provision for the imposition of specified early exit charges on members of such schemes.
- (2) The rules must be made with a view to securing, so far as is reasonably possible, an appropriate degree of protection for members of relevant pension schemes against early exit charges being a deterrent on taking, converting or transferring benefits under the schemes.
- (3) The rules may specify early exit charges by reference to charges of a specified class or description, or by reference to charges which exceed a specified amount.

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- (4) The rules made by virtue of subsection (1)(a) must prohibit the imposition of the charges after those rules come into force, whether the relevant pension scheme was established before or after those rules (or this section) came into force.
- (5) In relation to a charge which is imposed, or provision for the imposition of a charge which is included in a pension scheme, in contravention of the rules, the rules may (amongst other things)—
 - (a) provide for the obligation to pay the charge to be unenforceable or unenforceable to a specified extent;
 - (b) provide for the recovery of amounts paid in respect of the charge;
 - (c) provide for the payment of compensation for any losses incurred as a result of paying amounts in respect of the charge.
- (6) Subject to subsection (8) an early exit charge, in relation to a member of a pension scheme, is a charge which—
 - (a) is imposed under the scheme when a member who has reached normal minimum pension age takes the action mentioned in subsection (7), but
 - (b) is only imposed, or only imposed to that extent, if the member takes that action before the member's expected retirement date.
- (7) The action is the member taking benefits under the scheme, converting benefits under the scheme into different benefits or transferring benefits under the scheme to another pension scheme.
- (8) The Treasury may by regulations specify matters that are not to be treated as early exit charges for the purposes of this section.
- (9) For the purposes of this section—
 - “charge”, in relation to a member of a pension scheme, includes a reduction in the value of the member's benefits under the scheme;
 - “expected retirement date”, in relation to a member of a pension scheme, means the date determined by, or in accordance with, the scheme as the date on which the member's benefits under the scheme are expected to be taken;
 - “normal minimum pension age” has the same meaning as in section 279(1) of the Finance Act 2004;
 - “relevant pension scheme” has the same meaning as in section 137FB;and a reference to benefits includes all or any part of those benefits.]

Textual Amendments

F11 S. 137FBB inserted (6.7.2016) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), ss. **35(2)**, [41\(3\)](#); S.I. 2016/627, reg. 2(1)(z)

F12 **137FC** FCA rules: disclosure of information about the availability of financial guidance

- (1) The FCA must make general rules requiring specified authorised persons to provide information about the availability of financial guidance to the descriptions of persons specified in the rules.
- (2) The rules may specify the circumstances in which the duty to provide the information applies.

Status: Point in time view as at 31/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: General rule-making powers of the FCA and the PRA is up to date with all changes known to be in force on or before 22 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)

- (3) Before the FCA publishes a draft of any rules to be made by virtue of this section, it must consult—
- (a) the Secretary of State,
 - (b) the Treasury, and
 - (c) the [^{F13}Money and Pensions Service].
- (4) In this section—
- “financial guidance” means information, guidance or advice provided in pursuance of the [^{F14}Money and Pensions Service’s] pensions guidance, debt advice or money guidance function (see section 3 of the Financial Guidance and Claims Act 2018);
- “specified authorised person” means an authorised person of a description specified in rules made by virtue of this section.]

Textual Amendments

- F12** S. 137FC inserted (1.1.2019) by [Financial Guidance and Claims Act 2018 \(c. 10\), ss. 20, 37\(5\)](#); S.I. 2018/1003, reg. 2(b)
- F13** Words in s. 137FC(3)(c) substituted (6.4.2019) by [The Financial Guidance and Claims Act 2018 \(Naming and Consequential Amendments\) Regulations 2019 \(S.I. 2019/383\), reg. 1\(1\), Sch. para. 7\(b\)\(i\)](#)
- F14** Words in s. 137FC(4) substituted (6.4.2019) by [The Financial Guidance and Claims Act 2018 \(Naming and Consequential Amendments\) Regulations 2019 \(S.I. 2019/383\), reg. 1\(1\), Sch. para. 7\(b\)\(ii\)](#)

[^{F15}137FD] FCA general rules: charges for claims management services

- (1) The power of the FCA to make general rules includes power to make rules prohibiting authorised persons from—
- (a) entering into a specified regulated claims management agreement that provides for the payment by a person of charges which, taken with charges payable under an agreement treated by the rules as being connected with the regulated claims management agreement (if any), are specified charges, and
 - (b) imposing specified charges on a person in connection with the provision of a service which is, or which is provided in connection with, a specified regulated claims management activity.
- (2) The FCA must make rules by virtue of subsection (1) in relation to all regulated claims management agreements, and all regulated claims management activities, which concern claims in relation to financial products or services.
- (3) The rules must be made with a view to securing an appropriate degree of protection against excessive charges for the provision of a service which is, or which is provided in connection with, a regulated claims management activity.
- (4) The rules may specify charges by reference to charges of a specified class or description, or by reference to charges which exceed, or are capable of exceeding, a specified amount.
- (5) In relation to an agreement entered into, or charge imposed, in contravention of the rules, the rules may (amongst other things)—

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- (a) provide for the agreement, or obligation to pay the charge, to be unenforceable or unenforceable to a specified extent;
 - (b) provide for the recovery of amounts paid under the agreement or obligation;
 - (c) provide for the payment of compensation for any losses incurred as a result of paying amounts under the agreement or obligation.
- (6) The provision that may be made under subsection (5) includes provision corresponding to that made by section 30 (enforceability of agreements resulting from unlawful communications).
- (7) In this section—
- (a) “regulated claims management agreement” means an agreement, the entering into or performing of which by either party is a regulated claims management activity, and
 - (b) “specified” means specified in the rules, but “specified amount” means an amount specified in or determined in accordance with the rules.]

Textual Amendments

F15 S. 137FD inserted (E.W.S.) (29.3.2019) by [Financial Guidance and Claims Act 2018 \(c. 10\)](#), **ss. 28(2), 37(5)**; [S.I. 2019/743](#), **reg. 2(a)**

137G The PRA's general rules

- (1) The PRA may make such rules applying to PRA-authorised persons—
- (a) with respect to the carrying on by them of regulated activities, or
 - (b) with respect to the carrying on by them of activities which are not regulated activities,
- as appear to the PRA to be necessary or expedient for the purpose of advancing any of its objectives.
- (2) Rules made under this section are referred to in this Act as the PRA's general rules.
- (3) The PRA's general rules may make provision applying to PRA-authorised persons even though there is no relationship between the PRA-authorised persons to whom the rules will apply and the persons whose interests will be protected by the rules.
- (4) The PRA's general rules may contain requirements which take into account, in the case of a PRA-authorised person who is a member of a group, any activity of another member of the group.

^{F16}(5)

[The PRA's general rules may not modify, amend or revoke any retained direct EU ^{F17}(6) legislation (except retained direct EU legislation which takes the form of PRA rules).]

Textual Amendments

F16 S. 137G(5) omitted (31.12.2020) by virtue of [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1149\)](#), **reg. 1(3)**, **Sch. para. 10** (with **reg. 4**); [2020 c. 1](#), **Sch. 5 para. 1(1)**

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- F17** S. 137G(6) inserted (26.10.2018) by [The Financial Regulators Powers \(Technical Standards etc.\) \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1115\)](#), regs. 1(2), 7(7)

Modifications etc. (not altering text)

- C14** S. 137G modified by S.I. 2008/2644, art. 27(1A) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 147(b)(i)**
- C15** S. 137G modified by S.I. 2008/2546, art. 37(1A) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 146(c)(i)**
- C16** S. 137G modified by S.I. 2008/2666, art. 18(1A) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 148(b)(i)**
- C17** S. 137G modified by S.I. 2008/2674, art. 29(1A) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 149(b)(i)**
- C18** S. 137G modified by S.I. 2008/432, art. 15(1A) (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 136(d)(i)**
- C19** S. 137G(1) modified by S.I. 2009/3226, **art. 20(1A)** (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 182(a)(i)**
- C20** S. 137G(1) modified by S.I. 2009/814, **art. 9(1A)** (as substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), **Sch. 2 para. 167(b)(i)**

137H General rules about remuneration

- (1) This section applies where either regulator exercises its power to make general rules so as to make rules prohibiting persons, or persons of a specified description, from being remunerated in a specified way.
- (2) The rules may—
 - (a) provide that any provision of an agreement that contravenes such a prohibition is void, and
 - (b) provide for the recovery of any payment made, or other property transferred, in pursuance of a provision that is void by virtue of paragraph (a).
- (3) A provision that, at the time the rules are made, is contained in an agreement made before that time may not be rendered void under subsection (2)(a) unless it is subsequently amended so as to contravene a prohibition referred to in that subsection.

137I Remuneration policies: Treasury direction to consider compliance

- (1) This section applies where either regulator exercises its power to make general rules so as to make rules requiring authorised persons, or authorised persons of a description specified in the rules, to act in accordance with a remuneration policy.
- (2) A “remuneration policy” is a policy about the remuneration by an authorised person of—
 - (a) officers,
 - (b) employees, or

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- (c) other persons,
of a description specified in the rules.
- (3) The Treasury may direct the regulator to consider whether the remuneration policies of authorised persons specified in the direction (or of authorised persons of a description so specified) comply with requirements imposed by rules made by that regulator as to the contents of the policies.
- (4) Before giving a direction under subsection (3), the Treasury must consult the regulator concerned.
- (5) If the regulator considers that a remuneration policy of an authorised person fails to make provision which complies with the requirements mentioned in subsection (3), the regulator must take such steps as it considers appropriate to deal with the failure.
- (6) The steps that the regulator may take include requiring the remuneration policy to be revised.
- (7) “Authorised person”, in relation to the PRA, means PRA-authorised person.

137J Rules about recovery plans: duty to consult

- (1) Before either regulator prepares a draft of any general rules that require [^{F18}a] relevant person (or [^{F18}a] relevant person of a specified description) to prepare a recovery plan, the regulator must consult [^{F19}the Treasury].

[The FCA must also consult the Bank of England.]
^{F20}(1A)

[^{F21}(2) “Relevant person” means—

- (a) an institution authorised in the UK; or
 - (b) a qualifying parent undertaking within the meaning given by section 192B.
- (3) A “recovery plan” is a document which provides for measures to be taken—
- (a) by an institution authorised in the UK which is not part of a group, following a significant deterioration of the financial position of the institution, in order to restore its financial position; or
 - (b) in relation to a group, to achieve the stabilisation of the group as a whole, or of any institution within the group, where the group or institution is in a situation of financial stress, in order to address or remove the causes of the financial stress and restore the financial position of the group or institution.
- (4) For the purposes of subsection (3)(a) the definition of “group” in section 421 applies with the omission of subsection (1)(e) and (f) of that section.]
- (6) In this section—
- “authorised person”, in relation to the PRA, means PRA-authorised person;
 - [^{F22}“institution” means—
 - (a) a credit institution, other than an entity mentioned in Article 2.5 of the capital requirements directive; or
 - (b) an investment firm as defined in Article 4.1(2) of the capital requirements regulation that is subject to the initial capital requirement specified in rules made by a regulator for the purpose of implementing Article 28(2) of the capital requirements directive;]

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- “institution authorised in the UK” means [^{F23}an authorised person who is]—
- (a) a bank within the meaning given by section 2 of the Banking Act 2009;
 - (b) a building society within the meaning given in section 119 of the Building Societies Act 1986; or
 - (c) an investment firm within the meaning given by section 258A of the Banking Act 2009;
- “specified” means specified in the rules.

Textual Amendments

- F18** Word in s. 137J(1) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 2\(2\)](#)
- F19** Words in s. 137J(1) substituted for s. 137J(1)(a)(b) (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 33\(2\)](#) (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F20** S. 137J(1A) inserted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 33\(3\)](#) (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F21** S. 137J(2)-(4) substituted for s. 137J(2)-(5) (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 2\(3\)](#)
- F22** Words in s. 137J(6) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), [35\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in s. 137J(6) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), [35\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

137K [^{F24}Rules about resolution packs: duty to consult]

- (1) Before [^{F25}either regulator] prepares a draft of any general rules that require [^{F26}a] relevant person (or [^{F26}a] relevant person of a specified description) to prepare a [^{F27}resolution pack], [^{F28}the regulator] must consult [^{F29}the Treasury].

[The FCA must also consult the Bank of England.]
^{F30}(1A)

- (2) [^{F31}(2) “Relevant person” has the same meaning as in section 137J(2).]
- (3) A “[^{F32}resolution pack]” is a document containing information within subsection (4) or (5).
- (4) Information is within this subsection if it relates to action to be taken in the event of—
 - (a) circumstances arising in which it is likely that the business (or any part of the business) of an authorised person will fail, or
 - (b) the failure of the business (or any part of the business) of an authorised person.
- (5) Information is within this subsection if it would facilitate anything falling to be done by any person in consequence of that failure.
- (6) An example of information within subsection (5) is information that, in the event of that failure, would facilitate—
 - (a) planning by the Treasury in relation to the possible exercise of any of its powers under Part 1 of the Banking Act 2009, or

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- (b) planning by the Bank of England in relation to the possible exercise of any of its powers under Part 1, 2 or 3 of that Act.

[In this section “authorised person”, in relation to the PRA, means PRA-authorised ^{F33}(7) person.]

Textual Amendments

- F24** S. 137K heading substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(6\)](#)
- F25** Words in s. 137K(1) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(2\)\(a\)\(i\)](#)
- F26** Word in s. 137K(1) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(2\)\(b\)](#)
- F27** Words in s. 137K(1) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(3\)](#)
- F28** Words in s. 137K(1) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(2\)\(a\)\(ii\)](#)
- F29** Words in s. 137K(1) substituted for s. 137K(1)(a)(b) (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 34\(2\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)
- F30** S. 137K(1A) inserted (1.3.2017) by [Bank of England and Financial Services Act 2016 \(c. 14\)](#), s. 41(3), [Sch. 2 para. 34\(3\)](#) (with [Sch. 3](#)); S.I. 2017/43, reg. 2(g)
- F31** S. 137K(2) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(4\)](#)
- F32** Words in s. 137K(3) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(3\)](#)
- F33** S. 137K(7) inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 3\(5\)](#)

137L Interpretation of sections 137J and 137K

- (1) This section has effect for the interpretation of sections 137J and 137K.
- (2) References to the taking of action include the taking of action by—
- the authorised person,
 - any other person in the same group as the authorised person, or
 - a partnership of which the authorised person is a member.
- (3) In subsection (2)(b) the definition of “group” in section 421 applies with the omission of subsection (1)(e) and (f) of that section.
- (4) References to the business of an authorised person include the business of—
- any person in the same group as the authorised person, and
 - a partnership of which the authorised person is a member.
- (5) For the purposes of section 137K the cases in which the business (or any part of the business) of the authorised person (“A”) is to be regarded as having failed include those where—
- A enters insolvency,
 - any of the stabilisation options in Part 1 of the Banking Act 2009 is achieved in relation to A, or

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- (c) A falls to be taken for the purposes of the compensation scheme to be unable, or likely to be unable, to satisfy claims against A.
- (6) In subsection (5)(a) “insolvency” includes—
- (a) bankruptcy,
 - (b) liquidation,
 - (c) bank insolvency,
 - (d) administration,
 - (e) bank administration,
 - (f) receivership,
 - (g) a composition between A and A's creditors, and
 - (h) a scheme of arrangement of A's affairs.

^{F34}137M Special provision relating to adequacy of resolution plans

.....

Textual Amendments

F34 S. 137M repealed (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), [Sch. 3 para. 4](#)

137N Recovery plans and [^{F35}resolution packs]: restriction on duty of confidence

- (1) A contractual or other requirement imposed on a person (“P”) to keep information in confidence does not apply if—
- (a) the information is or may be relevant to anything required to be done as a result of a requirement imposed by general rules made by either regulator to prepare a recovery plan or a [^{F36}resolution pack],
 - (b) an authorised person or a skilled person requests or requires P to provide the information for the purpose of securing that those things are done, and
 - (c) the regulator in question has approved the making of the request or the imposition of the requirement before it is made or imposed.
- (2) An authorised person [^{F37}or a qualifying parent undertaking] may provide information (whether received under subsection (1) or otherwise) that would otherwise be subject to a contractual or other requirement to keep it in confidence if it is provided for the purposes of anything required to be done as a result of a requirement imposed by general rules to prepare a recovery plan or a [^{F36}resolution pack].
- (3) In this section, references to preparing a recovery plan or a [^{F36}resolution pack] include—
- (a) keeping [^{F38}that plan or pack] up to date, and
 - (b) collecting specified information for the purposes of [^{F39}that plan or pack].
- (4) In this section, references to a skilled person are to a person appointed in accordance with section 166A.
- (5) In this section—
- “authorised person”, in relation to rules of the PRA, means a PRA-authorised person;

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- [^{F40}“qualifying parent undertaking” means—
- (a) a qualifying parent undertaking within the meaning given by section 192B; ^{F41}...
- (b) ^{F41}...]
- “specified” means specified in the rules.]

Textual Amendments

- F35** Words in s. 137N heading substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(6)**
- F36** Words in s. 137N substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(2)**
- F37** Words in s. 137N(2) inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(3)**
- F38** Words in s. 137N(3)(a) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(4)**
- F39** Words in s. 137N(3)(b) substituted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(4)**
- F40** Words in s. 137N(5) inserted (10.1.2015) by [The Bank Recovery and Resolution \(No. 2\) Order 2014 \(S.I. 2014/3348\)](#), art. 1(2), **Sch. 3 para. 5(5)**
- F41** Words in s. 137N(5) omitted (31.12.2020) by virtue of [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\)](#), regs. 1(3), **36**; 2020 c. 1, Sch. 5 para. 1(1)

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