



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

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

#### RULES AND GUIDANCE

### [<sup>F1</sup>CHAPTER 3

#### GUIDANCE

##### 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 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)**
- C2** 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))
- C3** 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)**

## 139A Power of the FCA to give guidance

- (1) The FCA may give guidance consisting of such information and advice as it considers appropriate—

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- (a) with respect to the operation of specified parts of this Act and of any rules made by the FCA;
- (b) with respect to any other matter relating to functions of the FCA;
- (c) with respect to any other matters about which it appears to the FCA to be desirable to give information or advice.

<sup>F2</sup>(1A) .....

- (2) The FCA may give financial or other assistance to persons giving information or advice of a kind which the FCA could give under this section.
- (3) Subsection (5) applies where the FCA proposes to give guidance to FCA-regulated persons generally, or to a class of FCA-regulated persons, in relation to rules to which those persons are subject.
- (4) Subsection (5) also applies in relation to guidance which the FCA proposes to give to persons generally, or to a class of person, in relation to its functions under the short selling regulation [<sup>F3</sup>or the market abuse regulation [<sup>F4</sup>, any retained EU direct legislation originally made under the market abuse regulation or any subordinate legislation (within the meaning of the Interpretation Act 1978) made on or after IP completion day under the market abuse regulation]].
- (5) Where this subsection applies, subsections (1), (2)(e) and (3) of section 138I (consultation) apply to the proposed guidance as they apply to proposed rules, unless the FCA considers that the delay in complying with those provisions would be prejudicial to the interests of consumers.
- (6) The FCA may—
  - (a) publish its guidance,
  - (b) offer copies of its published guidance for sale at a reasonable price, and
  - (c) if it gives guidance in response to a request made by any person, make a reasonable charge for that guidance.
- (7) In this Chapter, references to guidance given by the FCA include references to any recommendations made by the FCA to FCA-regulated persons generally, or to any class of FCA-regulated person.
- (8) “Consumers” has the meaning given in section 1G.
- (9) “FCA-regulated person” means—
  - (a) an authorised person, or
  - (b) any person who is otherwise subject to rules made by the FCA.

#### Textual Amendments

- F2** S. 139A(1A) omitted (1.1.2019) by virtue of [Financial Guidance and Claims Act 2018 \(c. 10\), s. 37\(5\), Sch. 3 para. 16](#); [S.I. 2018/1330, reg. 2\(g\)\(v\)](#)
- F3** Words in s. 139A(4) inserted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\), regs. 1, 10\(6\)](#)
- F4** Words in s. 139A(4) substituted (31.12.2020) by [The Financial Services and Markets Act 2000 \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/632\), regs. 1\(3\), 40](#) (as amended by [S.I. 2020/1301, regs. 1, 3, Sch. para. 33\(d\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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#### **Modifications etc. (not altering text)**

- C4** S. 139A modified by S.I. 2008/432, art. 16(2) (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)(ii)**
- C5** S. 139A modified by S.I. 2008/2644, art. 28(2) (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)(aa)(ii)**
- C6** S. 139A modified by S.I. 2009/3226, art. 21(2) (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)(ii)**
- C7** S. 139A modified by S.I. 2008/2666, art. 19(2) (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)(aa)(ii)**
- C8** S. 139A modified by S.I. 2008/2674, art. 30(2) (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)(aa)(ii)**
- C9** S. 139A modified by S.I. 2009/814, art. 10(2) (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)(ii)**
- C10** S. 139A modified by S.I. 2008/2546, art. 38(2) (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)(ii)**
- C11** S. 139A applied (with modifications) (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by The Financial Services Act 2012 (Mutual Societies) Order 2018 (S.I. 2018/323), art. 1, **Sch. 1 para. 2(2)(f)** (with art. 3)
- C12** S. 139A applied (with modifications) (8.6.2023 for specified purposes) by The Financial Services and Markets Act 2000 (Financial Promotion) (Amendment) Order 2023 (S.I. 2023/612), art. 1(2), **Sch. para. 13** (with art. 11)
- C13** S. 139A(3) applied (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 1 para. 8** (with Sch. 12)
- C14** S. 139A(3) excluded (2.4.2013) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2013 (S.I. 2013/655), arts. 1, **9(2)**
- C15** S. 139A(3) excluded (1.4.2015) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2015 (S.I. 2015/369), arts. 1, **6(2)(c)**
- C16** S. 139A(3) excluded (6.4.2015) by The Bank of England Act 1998 (Macro-prudential Measures) Order 2015 (S.I. 2015/909), arts. 1, **4(2)(a)** (with art. 4(1))
- C17** S. 139A(3) excluded (16.12.2016) by The Bank of England Act 1998 (Macro-prudential Measures) Order 2016 (S.I. 2016/1240), arts. 1, **4(2)(a)**
- C18** S. 139A(3) excluded (27.2.2018) by The Financial Services and Markets Act 2000 (Benchmarks) Regulations 2018 (S.I. 2018/135), regs. 1(2), **32(2)(c)**
- C19** S. 139A(3) applied (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by The Financial Services Act 2012 (Mutual Societies) Order 2018 (S.I. 2018/323), art. 1, **Sch. 1 paras. 6-8** (with art. 3)
- C20** S. 139A(5) excluded by S.I. 2004/454, art. 12(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. 89(b)**
- C21** S. 139A(5) excluded by S.I. 2006/3259, reg. 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. 120(b)(ii)**
- C22** S. 139A(5) excluded (23.3.2019) by The Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/632), regs. 1(2), **203(5)**

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**C23** S. 139A(5) modified (13.3.2023 at 8.00 a.m.) by [The Amendments of the Law \(Resolution of Silicon Valley Bank UK Limited\) Order 2023 \(S.I. 2023/319\)](#), arts. 1(2), **4(2)**

### **139B Notification of FCA guidance to the Treasury**

- (1) On giving any general guidance, the FCA must give written notice to the Treasury without delay.
- (2) If the FCA alters any of its guidance, it must give written notice to the Treasury without delay.
- (3) The notice under subsection (2) must include details of the alteration.
- (4) If the FCA revokes any of its general guidance, it must give written notice to the Treasury without delay.
- (5) “General guidance” means guidance given by the FCA under section 139A which is—
  - (a) given to persons generally, to FCA-regulated persons generally or to a class of FCA-regulated person,
  - (b) intended to have continuing effect, and
  - (c) given in writing or other legible form.
- (6) “FCA-regulated person” has the same meaning as in section 139A.]

#### **Modifications etc. (not altering text)**

- C24** S. 139B applied (with modifications) (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 1 para. 7(3)** (with reg. 7)
- C25** S. 139B applied (with modifications) (3.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by [The Data Reporting Services Regulations 2017 \(S.I. 2017/699\)](#), regs. 1(2)(a)(b), **20(3)**
- C26** S. 139B applied (31.12.2020) by [The Credit Rating Agencies \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/266\)](#), regs. 1(3), **6(2)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- C27** S. 139B applied (8.6.2023 for specified purposes) by [The Financial Services and Markets Act 2000 \(Financial Promotion\) \(Amendment\) Order 2023 \(S.I. 2023/612\)](#), art. 1(2), **Sch. para. 1(g)** (with art. 11)
- C28** S. 139B(5) applied (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 1 para. 8** (with Sch. 12)
- C29** S. 139B(5) applied (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 1 para. 6** (with art. 3)

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