



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 9A

RULES AND GUIDANCE

CHAPTER 2

RULES: MODIFICATION, WAIVER, CONTRAVENTION AND PROCEDURAL PROVISIONS

Modification or waiver of rules

[^{F1}138A Modification or waiver of rules

- (1) Either regulator may, on the application or with the consent of a person who is subject to rules made by that regulator, direct that all or any of those rules—
 - (a) are not to apply to that person, or
 - (b) are to apply to that person with such modifications as may be specified in the direction.
- (2) Subsection (1) does not apply to—
 - (a) rules made by either regulator under section 137O (threshold condition code);
 - (b) rules made by the FCA under section 247 (trust scheme rules) or section 248 (scheme particulars rules).
- (3) An application must be made in such manner as the regulator may direct.
- (4) A regulator may not give a direction unless it is satisfied that—
 - (a) compliance by the person with the rules, or with the rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the rules were made, and
 - (b) the direction would not adversely affect the advancement of any of the regulator's objectives.

Status: Point in time view as at 01/04/2013. This version of this provision has been superseded.

Changes to legislation: Financial Services and Markets Act 2000, Section 138A is up to date with all changes known to be in force on or before 11 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)

- (5) In subsection (4)(b) “objectives”, in relation to the FCA, means operational objectives.
- (6) A direction may be given subject to conditions.
- (7) The regulator may—
- (a) revoke a direction, or
 - (b) vary it on the application, or with the consent, of the person to whom it relates.
- (8) “Direction” means a direction under this section.]

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** S. 138A applied by S.I. 2008/2674, art. 29(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(b)(aa)(ii)**
- C2** S. 138A 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)**
- C3** S. 138A applied by S.I. 2009/3226, art. 20(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(a)(aa)(ii)**
- C4** S. 138A applied (with modifications) by S.I. 2008/432, art. 15(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(d)(aa)(ii)**
- C5** S. 138A applied by S.I. 2008/2644, art. 27(2) (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)(aa)(ii)**
- C6** S. 138A applied by S.I. 2008/2666, art. 18(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(b)(aa)(ii)**
- C7** S. 138A applied by S.I. 2008/2546, art. 37(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(c)(aa)(ii)**
- C8** S. 138A(1) modified by S.I. 2009/814, art. 9(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(b)(ii)**
- C9** S. 138A(1)(6)(7) excluded by S.I. 2006/3221, reg. 8(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. 118(h)(iii)** (with [Sch. 2 para. 119](#))
- C10** Ss. 138A(3)-(7) modified by S.I. 2001/1228, reg. 7(3)(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. 41(4)**
- C11** Ss. 138A(3)-(7) applied (with modifications) by S.R. 2004/335, reg. 7(3)(4) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 87(4)**

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- C12** S. 138A(4) restricted by S.I. 2009/3226, art. 20(3) (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(a)(aa)(iii)**
- C13** S. 138A(4) restricted by S.I. 2008/432, art. 15(3) (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(d)(aa)(iii)**
- C14** S. 138A(4) restricted by S.I. 2008/2666, art. 18(3) (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(b)(aa)(iii)**
- C15** S. 138A(4) restricted by S.I. 2008/2546, art. 37(3) (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(c)(aa)(iii)**
- C16** S. 138A(4) excluded by S.I. 2006/3221, reg. 8(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. 118(h)(iii)** (with Sch. 2 para. 119)
- C17** S. 138A(4) restricted by S.I. 2008/2644, art. 27(3) (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(b)(aa)(ii)**
- C18** S. 138A(4) modified by S.I. 2009/814, art. 9(3)-(5) (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(b)(iii)(iv)**
- C19** S. 138A(4) restricted by S.I. 2008/2674, art. 29(3) (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(b)(aa)(iii)**

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