

Banking: Conduct of Business sourcebook

Schedule 5 Rights of action for damages

Sch 5

5.1	The table below sets out the <i>rules</i> in <i>BCOBS</i> contravention of which by an <i>authorised person</i> may be actionable under Section 138D of the <i>Act</i> (Actions for damages) by a <i>person</i> who suffers loss as a result of the contravention.
5.2	If a "Yes" appears in the column headed "For private person?", the <i>rule</i> may be actionable by a <i>private person</i> under Section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the <i>FCA</i> has removed the right of action under Section 138D(3) of the <i>Act</i> . If so, a reference to the <i>rule</i> in which it is removed is also given.
5.3	The column headed "For other person?" indicates whether the <i>rule</i> may be actionable by a <i>person</i> other than a <i>private person</i> (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of <i>person</i> by whom the <i>rule</i> may be actionable is given.

Rule	Right of action under section 150			
	For private person?	Removed?	For other person?	
Any rule in <i>BCOBS</i> which prohibits an authorised person from seeking to make provision excluding or restricting any duty or liability	Yes	No	Yes	Any other person
All other rules in <i>BCOBS</i>	Yes	No	No	

