

# FCA Market Watch 63 – Focus on Market Conduct Measures During the COVID-19 Crisis

May 29, 2020

On 27 May 2020, the UK Financial Conduct Authority (“**FCA**”) published the latest issue (“[Issue 63](#)”) of its Market Watch newsletter focusing on market conduct and transaction reporting issues. Market Watch 63 sets out the FCA’s expectations of market conduct in the context of increased capital raising events and alternative working arrangements due to the current pandemic. The newsletter is intended to highlight that firms need to be more vigilant where there is an increase in the likelihood of potential leaks and rumours in the current market, and as more businesses are heading to the market to recapitalize or raise other funds, the FCA notes that there is far more inside information circulating than is usual. Firms are advised to consider whether their existing procedures, systems and controls are still appropriate.

Key issues raised in the Market Watch newsletter are summarised as follows:

**1. Firms should continue to comply with their market conduct obligations during the current COVID-19 crisis**

The FCA makes clear that while it recognises the uncertainty created by the COVID-19 crisis and operational challenges arising from the public policy on social distancing, it expects all market participants to continue to comply with the relevant rules around market conduct and act in a manner that supports the integrity and orderly functioning of financial markets.

Issuers, advisors and anyone handling inside information should therefore ensure that they and their staff continue complying with all their obligations under relevant regulations including the Market Abuse Regulation (596/2014/EU) (“**MAR**”).

**2. Issuers seeking to raise additional funds should ensure that they have the right systems and controls in place**

The FCA has anticipated that as a response to the current pandemic, many issuers will need to seek additional capital, leading to an increase in primary market activity. Given that firms are already having to make alternative working arrangements, it is especially crucial that the right controls around market abuse, conduct, and managing conflicts of interest are in place.

The FCA emphasises that it will use its range of powers to monitor, make enquiries, investigate and where necessary, take enforcement action to protect the integrity and orderly function of the financial markets.

### **3. Firms should ensure their systems and controls are adequate for key focus areas**

The FCA encourages firms to focus on following areas during the current period:

- 1. Identification of inside information** - ensuring that inside information continues to be appropriately identified and handled by all persons involved in the information chain so that it is not misused for insider dealing or for commercial advantage;
- 2. Disclosure of inside information** - ensure inside information is appropriately disclosed by issuers so that investors are not misled;
- 3. Robust market surveillance** - maintain robust market surveillance and suspicious transaction and order reporting by relevant market participants, in the context of changes in market conditions and the current use of alternative working arrangements;
- 4. Transparency and short position requirements** - ensure firms continue to meet the transparency and short position covering requirements under the Short Selling Regulation (236/2012/EU) ("**SSR**") for market participants to support the effective functioning of the market; and
- 5. Conflict of interest management** - identify and managing conflicts of interest by market participants that may arise around capital raising events.

Firms should take this opportunity to assess their procedures, systems and controls to ensure that they continue to comply with their regulatory obligations under all applicable regulations and laws, including in particular, MAR.

Please reach out to the contacts above, should you wish to discuss the above in the context of your business.

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Proskauer's cross-disciplinary, cross-jurisdictional Coronavirus Response Team is focused on supporting and addressing client concerns. Visit our [Coronavirus Resource Center](#) for guidance on risk management measures, practical steps businesses can take and resources to help manage ongoing operations.

#### Related Professionals

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