

Introduction

Welcome to the latest in our series of regular alerts containing a round-up of news from our capital markets practice.

Market Abuse: Improper Disclosure

In *Ian Hannam v FCA*, the Upper Tribunal found that H, then Global Co-Head of UK Capital Markets at JP Morgan Cazenove, engaged in market abuse by disclosing inside information other than in the proper course of his employment within the meaning of section 118(3) of the Financial Services and Markets Act 2000. The decision includes various conclusions on the meaning of inside information.

A copy of the decision can be [found here](#).

Market Abuse: Entry Into Force of MAD II

On 2 July 2014, the Market Abuse Regulation (Regulation 596/2014) (MAR) and the Directive on criminal sanctions for insider dealing and market manipulation (2014/57/EU) (CSMAD) (together, MAD II) entered into force.

MAR will take direct effect on 3 July 2016, with the exception of certain provisions specified in Article 39(2), which apply from 2 July 2014.

Member states have until 3 July 2016 to incorporate CSMAD into their national law. However, the UK is not adopting CSMAD at this stage and will therefore not be bound by it.

The Regulation and Directive can be [found here](#).

Financial Services: MiFID II

On 2 July 2014, Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFID II) entered into force.

Member states are required to adopt the necessary measures to implement the directive by 3 July 2016 and to apply those measures from 3 January 2017 (save for certain exceptions).

The Directive can be [found here](#) at page 349.

Financial Regulation: Bribery

In June, Transparency International, the non-governmental anti-corruption organisation published guidance on countering small bribes. The guidance looks at the types of transactions that amount to bribery rather than at the nominal value of those bribes and provides a checklist of red flags.

The guidance can be found at [Countering Small Bribes: Principles and good practice guidance for dealing with small bribes including facilitation payments](#)

Financial Reporting: ESMA Final Guidelines on Enforcement of Financial Information

On 10 July 2014, ESMA published its final guidelines on the enforcement of financial information by competent authorities of EU member states that undertake enforcement of financial information under the Transparency Directive and competent authorities of EEA countries that are not EU member states, insofar as the Transparency Directive applies in those countries.

The guidelines aim to strengthen supervisory convergence in existing enforcement practices among EU accounting enforcers process by defining the objectives, the characteristics of the enforcers and some common elements in the enforcement process. This is intended to foster a level playing field and promote investor confidence.

A copy of the guidelines can be [found here](#).

Government Assets: Initial Public Offerings – Review

The Department for Business, Innovation and Skills launched an informal review on 10 July 2014 into the way government conducts Initial Public Offerings and the bookbuilding process. The review was one of the recommendations made by the National Audit Office in its report into the government's sale of Royal Mail in November 2013, and will inform future decision-making in the disposal of shares owned by government.

The report is [available here](#).

Market Abuse: ESMA Consultations on Draft Technical Standards and Advice on the Market Abuse Regulation

On 15 July 2014 ESMA published consultation papers on draft technical standards on the Market Abuse Regime (Technical Standards CP) and draft technical advice on possible delegated acts concerning the Market Abuse Regime (Technical Advice CP).

The Technical Standards CP follows the discussion paper published in November 2013 and covers areas including:

- The conditions for buy-back programmes and stabilisation measures.
- Market soundings and accepted market practices.
- Technical means for public disclosure of inside information and delaying disclosure.
- Insider lists and PDMR (persons discharging managerial responsibilities) transactions.

The Technical Advice CP covers areas including:

- Specification of the indicators of market manipulation.
- Determination of the competent authority for notification of delays in public disclosure of inside information.
- PDMR transactions.

Comments on both consultation papers should be made by 15 October 2014.

Copies of the [Technical Standards CP](#) and the [Technical Advice CP](#) can be found online

Takeover Code: Consultation on Miscellaneous Code Amendments

On 16 July 2014, the Code Committee of the Takeover Panel published PCP 2014/1: Miscellaneous amendments to the Takeover Code, seeking views on a number of proposed amendments to the Takeover Code.

One of the proposed amendments is that the deadline for a potential competing offeror to clarify its position should be a firm date rather than a flexible date set by the Panel on a case-by-case basis and that the deadline should be extended and calculated as the 53rd day after the publication of the first offeror's offer document (Day 53).

Responses to the consultation are due by 12 September 2014. The Panel Executive is also seeking comments on a number of proposed amendments to update its disclosure forms by the same date.

A copy of the consultation paper can be [found here](#).

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