

# The UK Market Abuse Regime

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# The UK Market Abuse Regime

- The Role and powers of the FSA
- The Role of the RDC
- The UK legislation
  - Insider Dealing
  - Market Misconduct
  - Market Abuse
- History of market abuse regimes
- What we have been doing
- Priorities and Progress
- Lessons Learned
- The Future

## **The FSA's Role**

- **Single UK Financial Services Regulator**
- **Statutory Non-Governmental Body**
- **Funded by Industry**
- **Accountable to Parliament**
- **Financial Services and Markets Act 2000**
- **1 December 2001 (“N2”)**

## **FSA's Investigation Powers**

- **Statutory investigators**
- **Information requests**
- **Interviews**
- **Search warrants**
- **No powers of arrest**

## **FSA's Powers – Disciplinary Sanctions**

- **Criminal prosecution**
- **Civil proceedings**
- **Administrative sanctions**
  - **financial penalties**
  - **withdrawal of approval**
  - **prohibition**
  - **cancellation/variation of permission**

## **The Role of the Regulatory Decisions Committee**

- Independent from investigators**
- Practitioners and non-practitioners**
- Responsible for issue of statutory notices**
- Reference to the Financial Services and Markets Tribunal**

## **Criminal Offences Insider Dealing Criminal Justice Act 1993**

- **Non-public price-sensitive information**
- **From insider**
- **Deal when in possession**
- **Organised securities market**
- **Criminal sanctions**

# **Criminal Offences**

**FSMA 2000 s.397**

- **Market Misconduct – Misleading Statements & Practices**

## **Market Abuse Under FSMA**

- **Misuse of Information**
- **Dissemination of false or misleading information**
- **Market Distortion**
- **Includes encouraging or requiring**
- **Civil/Administrative or Criminal Sanctions**
- **Authorised and Unauthorised Persons**

## **Market Abuse Under FSMA**

- **S.118 FSMA 2000**
  - **reasonable regular user (hypothetical)**
  - **behaviour reasonably expected**
  - **objective test**
- **Code of Market Conduct**
  - **Guidance on what will not constitute market abuse**

## The history

- **New market abuse regime**
  - plugging the gap
  - high level provisions supported by Code
  - administrative fining powers
  - specialist tribunal
- **Combining criminal, civil and administrative powers**

## **What we have been doing**

- **FSA capabilities & structure**
- **Referral process**
- **Investigations**
- **Priorities & progress**

# Priorities and Progress

- **corporate insiders**
  - Company Secretary
  - Finance Director
  - Auditor
- **corporate disclosure**
  - Big Food Group, Marconi, SFI – Listing Rule breaches
  - AIT – first criminal prosecution
- **spread betting**
  - Cyprotex
- **authorised firms / approved persons**
  - ABN Amro

## **Lessons Learned - process**

- **speed of response**
- **reliance on circumstantial evidence**
- **co-operation**
- **interplay of criminal and regulatory process**
- **applying the market abuse regime in practice**
- **administrative decision making**

## The future

- **Initial results**
- **Financial penalties**
- **The Tribunal**
- **Refocusing effort**
  - rapid response on key cases
  - addressing “pressure points”
  - training, procedures and controls

# QUESTIONS