UK legal and regulatory developments

Implementation of the Market Abuse Directive

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INTRODUCTION

On 1st July, 2005, the Financial Services and Markets Act 2000 (Market Abuse) Regulations 2005 ('the Regulations') came into effect as a result of the need to implement the Market Abuse Directive (MAD).¹ Among other things, the Regulations resulted in the law relating to market abuse in Part 8 of the Financial Services and Markets Act 2000 (as amended) (FSMA) being amended. The purpose of this paper is to examine those amendments and analyse the types of behaviour that constitute market abuse.

- (a) qualifying investments admitted to trading on a prescribed market;
 - (b) qualifying investments in respect of which a request for admission to trading on such a market has been made or;
 - (c) (in the case of ss. 118(2) [insider dealing] or ss. 118 (3) [improper disclosure] behaviour — see below), investments which are related investments in relation to such qualifying investments; and
- (2) falls within any one or more of the types of behaviour set out in ss. 118(2) to ss. 118(8).

THE DEFINITION OF MARKET ABUSE

Behaviour constituting market abuse

Subsection 118(1) of FSMA defines market abuse as behaviour which:

- (1) occurs in relation to:

The types of behaviour in ss. 118(2)–118(8) include the three types of behaviour which amounted to market abuse prior to the implementation of MAD (the 'legacy offences'). The legacy offences are now found in ss. 118(4) and ss. 118(8) of FSMA. However, in order to ensure that,

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in the longer term, the regime is not ‘superequivalent’ to that required by MAD, however, ss. 118(4) and ss. 118(8) will cease to have effect on 30th June, 2008.²

Prescribed markets, qualifying investments and related investments

The definitions of ‘prescribed markets’ and ‘qualifying investments’ are found in the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 (as amended)³ (‘the 2001 Order’). Article 4(1) of the 2001 Order provides that, as far as those market abuse offences other than the legacy offences are concerned, the prescribed markets are:

- (1) all markets which are established under the rules of a UK recognised investment exchange (RIE);
- (2) the OFEX market;
- (3) all other markets which are regulated markets.⁴

As far as the legacy offences are concerned, article 4(2) of the 2001 Order provides that the prescribed markets are markets established under the rules of a UK RIE and OFEX but not all other markets which are regulated markets.

Article 5 of the 2001 Order defines qualifying investments in relation to the markets prescribed by article 4 as all financial instruments within the meaning of MAD. The upshot of articles 4 and 5 is that, for the purposes of the UK’s market abuse regime, qualifying investments will include, among other financial instruments, all derivatives contracts traded on UK RIEs.

As far as the new types of behaviour

constituting market abuse are concerned, the words ‘in relation to’ are not expanded upon in the statute. As far as the legacy offences are concerned, however, the position remains as it was prior to the implementation of MAD, in that the behaviour that is to be regarded as occurring in relation to qualifying investments includes behaviour which:

- (1) occurs in relation to anything that is the subject matter, or whose price or value is expressed by reference to the price or value of the qualifying investments, or
- (2) occurs in relation to an investment (whether or not it is a qualifying investment) whose subject matter is the qualifying investment.⁵

This means that, as far as the legacy offences are concerned, behaviour in relation to a physical commodity such as gas or oil, which is the subject matter of a contract traded on a prescribed market, will be deemed to have occurred in relation to a qualifying investment. The position concerning the new types of abusive behaviour, however, is less clear. On the basis that there is no statutory reference to the meaning of ‘in relation to’ as far as these types of behaviour are concerned, it is reasonable to assume that the phrase should be construed more narrowly than in the case of the legacy offences.

The term ‘related investment’ is defined in ss. 130A(3) as — in relation to a qualifying investment — an investment whose price or value depends on the price or value of the qualifying investment. An example of a related investment would be an over the counter (OTC) swap which is settled by reference to the price of an International

Petroleum Exchange (IPE) contract. Physical commodities would not qualify, on the basis that, although they may relate to qualifying investments, they are not themselves investments.

INSIDER DEALING

The first type of behaviour constituting market abuse is insider dealing. This is defined in ss. 118(2) as occurring where an insider deals, or attempts to deal, in a qualifying investment or related investment on the basis of inside information relating to the investment in question.

Meaning of 'insider'

An insider is defined in section 118B of FSMA as any person who has inside information:

- (1) as a result of his/her membership of an administrative, management or supervisory body of an issuer of qualifying investments;
- (2) as a result of his/her holding in the capital of an issuer of qualifying investments;
- (3) as a result of having access to the information through the exercise of his/her employment, profession or duties;
- (4) as a result of his/her criminal activities; or
- (5) which he/she has obtained by other means and which he/she knows, or could reasonably be expected to know, is inside information.

With the exception of the person who obtains inside information by other means,

the person concerned does not need to know that the information concerned is inside information.⁶

Meaning of 'inside information'

There are three different definitions of inside information in s.118C of FSMA. The first relates to qualifying investments or related investments which are not commodity derivatives, the second relates to qualifying investments or related investments which are commodity derivatives and the third relates to a person charged with the execution of orders concerning any qualifying investments or related investments.

1. Qualifying investments or related investments which are not commodity derivatives

In relation to qualifying investments or related investments which are not commodity derivatives, inside information is information of a precise nature that:

- (a) is not generally available;
- (b) relates, directly or indirectly, to one or more issuers of the qualifying investments or to one or more of the qualifying investments; and
- (c) would, if generally available, be likely to have a significant effect on the price of the qualifying investments or on the price of the related investments.⁷

2. Qualifying investments or related investments which are commodity derivatives

In relation to qualifying investments or related investments which are commodity

derivatives, inside information is information of a precise nature that:

- (a) is not generally available;
- (b) relates, directly or indirectly, to one or more such derivatives; and
- (c) users of markets on which the derivatives are traded would expect to receive in accordance with any accepted market practices on those markets.⁸

3. Persons charged with the execution of orders

In relation to a person charged with the execution of orders concerning any qualifying investments or related investments, inside information includes information conveyed by a client and related to the client's pending orders that:

- (a) is of a precise nature;
- (b) is not generally available;
- (c) relates, directly or indirectly, to one or more issuers of qualifying investments or to one or more qualifying investments; and
- (d) would, if generally available, be likely to have a significant effect on the price of those qualifying investments or the price of related investments.⁹

Key elements of the definition of inside information

1. Precise nature

All three definitions of inside information require the information to be precise. Subsection 118C(5) of FSMA states that information is precise if it:

- (a) indicates circumstances that exist or may reasonably be expected to come into existence or an event that has occurred or may reasonably be expected to occur and
- (b) is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or that event on the price of qualifying investments or related investments.

2. Not generally available

All three definitions of inside information also require the information to be not generally available. The Code of Market Conduct (MAR) gives guidance on the meaning of 'not generally available'.

Paragraph 1.2.12 states that, in the opinion of the FSA, the following factors are to be taken into account in determining whether or not information is generally available, and are indications that it is:

- (a) whether the information has been disclosed to a prescribed market through a regulatory information service or otherwise in accordance with the rules of that market;
- (b) whether the information is contained in records which are open to inspection by the public;
- (c) whether the information is otherwise generally available, including through the Internet or some other publication (including if it is only available on payment of a fee), or is derived from information which has been made public;
- (d) whether the information can be obtained by observation by members of

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- the public without infringing rights or obligations of privacy, property or confidentiality; and
- (e) whether the extent to which the information can be obtained by analysing or developing other information which is generally available.

The guidance in MAR also states that, in relation to the above factors, it is not relevant that the information is only generally available outside the UK. In addition, MAR states that it is not relevant that the observation or analysis is only achievable by a person with above-average financial resources, expertise or competence.¹⁰ This last point gives comfort to market professionals who devote resources and expertise to analysing market developments.

3. Likely to have a significant effect on price

The definitions of inside information that apply to financial instruments other than commodity derivatives and to persons charged with the execution of orders both provide that the information in question must, if it were generally available, be likely to have a significant effect on the price of the qualifying investments or related investments in question. Subsection 118C(6) provides that information would be likely to have a significant effect on price if and only if it is information of a kind which a reasonable investor would be likely to use as part of the basis of his/her investment decisions. MAR does not elaborate on this, although some guidance

on the concept of significant effect can be found in the Disclosure Rules (DR) which set out the disclosure obligations relating to issuers in possession of inside information. This guidance states that, in determining the likely price significance of the information, an issuer should assess whether the information in question would be likely to be used by a reasonable investor as part of the basis of investment decisions and would therefore be likely to have a significant effect on the price of the issuer's financial instruments (the 'reasonable investor test').¹¹ The guidance in DR makes clear that an issuer should be mindful that there is no figure (percentage change or otherwise) that can be set for any issuer when determining what constitutes a 'significant effect' on the price of the financial instruments, as this will vary from issuer to issuer.¹² The DR also goes on to state that the reasonable investor test requires an issuer:

- (a) to take into account that the significance of the information in question will vary widely from issuer to issuer, depending on a variety of factors such as the issuer's size, recent developments and market sentiment about the issuer and the sector in which it operates, and
- (b) to assume that a reasonable investor will make investment decisions relating to the relevant financial instrument to maximise his/her economic self-interest.¹³

According to the DR, any assessment should take into consideration the

anticipated impact of the information in light of the totality of the issuer's activities, the reliability of the source of the information and other market variables likely to affect the relevant financial instrument in the given circumstances. Information which the FSA considers as likely to be relevant to a reasonable investor's decision includes information which affects:

- (a) the assets and liabilities of the issuer
- (b) the performance, or the expectation of the performance, of the issuer's business
- (c) the financial condition of the issuer
- (d) the course of the issuer's business
- (e) major new developments in the business of the issuer
- (f) information previously disclosed to the market.¹⁴

4. Information which market users would expect to receive

The definition of inside information that applies to commodity derivatives contains a requirement that the information must, among other things, be information that users of markets on which the derivatives are traded would expect to receive in accordance with any accepted market practices on those markets. Subsection 118C(7) of FSMA states that users of markets on which investments in commodity derivatives are traded are to be treated as expecting to receive information, relating directly or indirectly to one or more such derivatives in accordance with any accepted market practices, which is routinely made available to users of those markets, or

which is required to be disclosed in accordance with any statutory provision, market rules or contracts or customs on the relevant underlying commodity market or commodity derivatives market.

An example of information which would fall into this category would be information about stocks of metal in London Metal Exchange (LME) approved warehouses. As LME approved warehouses have to report stock figures to the LME, which subsequently publishes those figures, such information, prior to its publication, will constitute inside information. Interestingly, because there is no significant effect requirement as far as commodity derivatives are concerned, information which regular market users would expect to receive is capable of being inside information regardless of its potential impact on the price of the commodity derivatives in question.

5. Information conveyed by a client and relating to a client's pending order

The definition of inside information relating to persons charged with the execution of orders is aimed at ensuring that the practice of 'front running' is classified as market abuse. Although front running was not permitted prior to the implementation of MAD, it was classified as customer abuse by the FSA rather than as market abuse under the previous market abuse regime. Guidance on what constitutes a pending client order is given in paragraph 1.2.16 of MAR. This guidance states that, in the FSA's opinion, a factor which indicates that there is a pending order for a client is if a person

is approached by another in relation to a transaction, and:

- (a) the transaction is not immediately executed on an arms length basis in response to a price quoted by that person and
- (b) the person concerned has taken on a legal or regulatory obligation relating to the manner or timing of the execution of the transaction.

The nature of this guidance suggests that if, in response to a client's request, firms provide a quote for the price of a particular instrument and the client chooses not to trade once the quote is provided, the information which a firm discerns from the client's request for a quote will not amount to inside information, as, in such circumstances, the firm will not have taken on a legal or regulatory obligation to execute the transaction. Although trading on the basis of information of this nature may not amount to insider dealing, it may, however, still amount to some other form of improper conduct which could result in the FSA taking disciplinary action for a breach of its rules or principles. An example is provided by the FSA's action against Morgan Grenfell & Co Limited, which was made public in March 2004. In that case, Morgan Grenfell's programme trading desk engaged in trading some of the component securities of a customer's programme trade between the provision of limited information to enable the firm to provide a quote for that trade and the strike time of that trade. This conduct resulted in the customer paying more than

it would otherwise have done for the trade and the firm was fined £190,000 for a breach of Principle 6 and Principle 8 of the FSA's Principles for Businesses.¹⁵

IMPROPER DISCLOSURE

The second type of behaviour which constitutes market abuse is where an insider discloses inside information to another person other than in the proper course of the exercise of his/her employment, profession or duties.¹⁶ The definitions of 'insider' and 'inside information' as described above, apply to improper disclosure in the same way that they apply to insider dealing. FSA guidance on improper disclosure can be found in paragraph 1.4 of MAR.

Examples of improper disclosure include a director of an issuer who discloses inside information to another in a social context and a trader who, having received details of a large client order, discloses details of that order to another client prior to execution. Disclosure of inside information will not amount to improper disclosure if it is made to a regulatory body or authority for the purposes of fulfilling a legal or regulatory obligation or otherwise to such a body in connection with the performance of the functions of that body.¹⁷ In addition, protected disclosures within the meaning of s.131A of FSMA will not be improper disclosures. A protected disclosure is a disclosure which a person is required to make to the FSA if the information they possess causes them to know or suspect, or gives reasonable grounds for knowing or suspecting, that another person is engaging

in market abuse. The obligation to report suspicions of market abuse is dealt with below.

MISUSE OF INFORMATION

Misuse of information occurs where the behaviour (not amounting to insider dealing or improper disclosure):

- (1) is based on information which is not generally available to those using the market but which if available to a regular user of the market would be, or would be likely to be, regarded by him as relevant when deciding the terms on which transactions in qualifying investments should be effected ('relevant information') and
- (2) is likely to be regarded by a regular user of the market as a failure on the part of the person concerned to observe the standard of behaviour reasonably expected of a person in his position in relation to the market.¹⁸

The range of behaviours covered by the misuse of information offence is wider than those covered by the insider dealing and improper disclosure offences. First, the behaviour must be based on 'relevant information' as opposed to 'inside information'. The range of information which is capable of being relevant within the context of the misuse of information offence is wider than that which falls within the more precise and narrowly defined concept of inside information. For example, if an employee of a publicly traded company became aware of

contractual negotiations between his employer and a customer which suggested that the customer was planning to take its business elsewhere, this information would only be inside information within the meaning of s.118(C) of FSMA if, among other things, it would, if generally available, be likely to have a significant effect on the price of the employer's shares. Such information is capable of being relevant information even if it would not have a significant effect, provided that a regular user of the market on which the company's shares are traded would regard it as relevant in deciding whether or not to buy or sell the company's shares.

Secondly, the types of behaviour covered by the misuse of information offence are not confined to dealing in qualifying investments or improper disclosure. For example an individual in possession of inside information about a publicly traded company who places a fixed odds bet relating to that company's share price could not be guilty of insider dealing within the meaning of ss.118(2) of FSMA, as he has not dealt in a qualifying investment. Such conduct could, however, amount to a misuse of information because s.118 of FSMA is not prescriptive as to the type of conduct amounting to 'misuse'.

Misuse of information will cease to be market abuse on 30th June, 2008, when ss. 118(4) ceases to have effect.¹⁹

MANIPULATING TRANSACTIONS

Subsection 118(5) of FSMA provides that the fourth type of behaviour constituting market abuse consists of effecting

transactions or orders to trade (other than for legitimate reasons and in conformity with accepted market practices on the relevant market) which:

- (1) give, or are likely to give, a false or misleading impression as to the supply of, or demand for, or as to the price of, one or more qualifying investments; or which
- (2) secure the price of one or more such investments at an abnormal or artificial level.

Paragraph 1.6 of MAR provides guidance on manipulating transactions. Examples of behaviour which are, in the FSA's opinion, of a type involving false or misleading impressions include:

- (1) buying or selling qualifying investments at the close of the market with the effect of misleading investors who act on the basis of closing prices, other than for legitimate reasons;
- (2) wash trades — that is, a sale or purchase of a qualifying investment where there is no change in beneficial interest or market risk, or where the transfer of beneficial interest or market risk is only between parties acting in concert or collusion, other than for legitimate reasons;
- (3) entering orders into an electronic trading system at prices which are higher than the previous bid or lower than the previous offer and withdrawing them before they are executed, in order to give a misleading impression that there is a

demand for or supply of the qualifying investment at that price.²⁰

Examples of behaviour which are, in the FSA's opinion, of a type which involves securing the price of a qualifying investment include:

- (1) transactions or orders to trade made by a person, or persons acting in collusion, that secure a dominant position over the supply of or demand for a qualifying investment and which have the effect of fixing, directly or indirectly, purchase or sale prices or creating other unfair trading conditions, other than for legitimate reasons;
- (2) transactions where both buy and sell orders are entered at, or nearly at, the same time, with the same price and quantity by the same party, or different but colluding parties, other than for legitimate reasons, unless the transactions are legitimate trades carried out in accordance with the rules of the relevant trading platform (such as crossing trades);
- (3) entering small orders into an electronic trading system at prices which are higher than the previous bid or lower than the previous offer in order to move the price of the qualifying investment, other than for legitimate reasons;
- (4) abusive squeezes;
- (5) transactions or orders to trade employed so as to create obstacles to the price falling below a certain level, in order to avoid negative consequences, for example to avoid having to pay out on a swap contract settled by reference to a closing market price.²¹

MANIPULATING DEVICES

The fifth type of behaviour constituting market abuse, as described in ss. 118(6) of FSMA, consists of effecting transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance. Paragraph 1.7 of MAR contains guidance on this offence. Examples of behaviour which, in the FSA's opinion, fall into this category include:

- (1) taking advantage of occasional or regular access to the traditional or electronic media by voicing an opinion about a qualifying investment while having previously taken positions on that qualifying investment and profiting subsequently from the impact of the opinions voiced on the price of that instrument, without having simultaneously disclosed that conflict of interest to the public in a proper and effective way;
- (2) 'pump and dump' — that is, taking a long position in a qualifying investment and then disseminating misleading positive information about the qualifying investment with a view to increasing its price;
- (3) 'trash and cash' — that is, taking a short position in a qualifying investment and then disseminating misleading negative information about it, with a view to driving down its price.²²

DISSEMINATION

Subsection 118(7) of FSMA provides that the sixth type of behaviour constituting market abuse consists of the dissemination

of information by any means which gives, or is likely to give, a false or misleading impression about a qualifying investment by a person who knew or could reasonably be expected to have known the information was false or misleading. Paragraph 1.8 of MAR contains guidance on dissemination. Examples of behaviours which, in the opinion of the FSA, fall within this category include:

- (1) knowingly or recklessly spreading false or misleading information about a qualifying investment through the media, for example by posting information which contains false or misleading statements about a qualifying investment on an Internet bulletin board or in a chat room in circumstances where the person knows that the information is false or misleading;
- (2) undertaking a course of conduct in order to give a false or misleading impression about a qualifying investment.²³

MISLEADING BEHAVIOUR AND DISTORTION

The seventh type of behaviour constituting market abuse is where the behaviour (not amounting to manipulating transactions within the meaning of ss. 118(5), manipulating devices within the meaning of ss. 118(6) or dissemination within the meaning of ss. 118(7)):

- (1) is likely to give a regular user of the market a false or misleading impression

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- as to the supply of, demand for or price or value of, qualifying investments or
- (2) would be, or would be likely to be, regarded by a regular market user as behaviour that would distort, or would be likely to distort, the market in such an investment, and
 - (3) is likely to be regarded by a regular user of the market as a failure on the part of the person concerned to observe the standard of behaviour reasonably expected of a person in his position in relation to the market.²⁴

The behaviour described in ss. 118(8) covers two types of behaviour, both of which are legacy offences. The behaviour covered by ss.118(8) is wider than the behaviours set out in ss. 118(5), (6) and (7) in that all types of behaviour are potentially caught by it. In order to fall within ss. 118(5), (6) or (7), the behaviour must, among other things, involve effecting transactions or orders to trade or the dissemination of information. By way of example, the movement of an empty cargo ship, which might create false or misleading impression as to the supply of, or the demand for, or price or value of a commodity underlying a commodity derivatives contract traded on a RIE, could amount to misleading behaviour within the meaning of ss. 118(8) but would not be capable of falling within ss. 118(5), (6) or (7), as the behaviour in question does not involve effecting transactions or orders to trade or the dissemination of information. Like ss. 118(4), ss. 118(8) will cease to have effect on 30th June, 2008.

REQUIRING OR ENCOURAGING

A person ('A') who takes or refrains from taking any action that requires or encourages another person or persons to engage in behaviour, which if engaged in by A, would amount to market abuse is guilty of an offence under the market abuse regime.²⁵ An example of behaviour that might fall within this scope is where a director of a publicly traded company who, while in possession of inside information, instructs an employee of that company to deal in qualifying investments or related investments in respect of which the information is inside information.

PENALTIES FOR MARKET ABUSE

The FSA retains the same power to impose penalties that it had under the old market abuse regime. Accordingly, if the FSA is satisfied that a person is engaging in, or has engaged in market abuse, or has required or encouraged another person to do so, it may impose an unlimited fine on that person or publish a statement to the effect that he has engaged in market abuse.²⁶ The FSA may not impose a penalty if there are reasonable grounds to be satisfied that the person in question believed on reasonable grounds, that his behaviour did not amount to market abuse, or took all reasonable precautions and exercised all due diligence to avoid engaging in market abuse.²⁷ The FSA also has the power to apply for an injunction restraining someone from engaging in market abuse²⁸ and for an order requiring disgorgement of profits.²⁹

STATUTORY EXCEPTIONS

Subsection 122(1) of FSMA provides that if a person behaves in a way which is described in MAR as behaviour that, in the FSA's opinion, does not amount to market abuse, that behaviour of his is to be taken as not amounting to market abuse. Pursuant to ss. 122(1), MAR sets out three categories of safe harbour.³⁰ These are:

- (1) Behaviour which conforms with articles 3–6 of the Buy-back and Stabilisation Regulation.³¹
- (2) Compliance with FSA rules which contain a provision to the effect that behaviour conforming with that rule does not amount to market abuse namely COB 2.4.4(1) (Chinese walls), and those parts of the Part 6 rules³² which relate to the timing, dissemination or availability, content and standard of care applicable to a disclosure, announcement, communication or release of information.
- (3) Behaviour conforming with:
 - (a) any of the rules of the Takeover Code or Substantial Acquisition Rules (SARs)³³ about the timing, dissemination or availability, content and standard of care applicable to a disclosure, announcement, communication or release of information
 - (b) Rule 4.2 of the Takeover Code³⁴ if the behaviour is expressly required or expressly permitted by that rule and it conforms to any General Principle set out at Section B of the Takeover Code relevant to the rule.

REPORTING SUSPICIOUS TRANSACTIONS

In addition to leading to changes in the substantive offences constituting market abuse, the implementation of MAD has also resulted in the introduction of a requirement to report transactions giving rise to a suspicion of market abuse. FSA rule SUP 15.10.2 provides that a FSA authorised firm which arranges or executes a transaction with or for a client in a qualifying investment admitted to trading on a prescribed market, and which has reasonable grounds to suspect that the transaction might constitute market abuse, must notify the FSA without delay. If a FSA authorised firm is required to make a notification, it must provide the FSA with a description of the transaction and the reasons for the suspicion.³⁵ As noted above, by virtue of s. 131A of FSMA, a disclosure made pursuant to the reporting requirement in SUP15.10.2 will be a 'protected disclosure' and will not amount to an improper disclosure within the meaning of ss. 118(3) of FSMA.

The introduction of the reporting requirement represents a significant new feature of the market abuse regime. The FSA has been very keen to discourage defensive reporting by firms and has stated that it will vigorously pursue cases where firms are notifying transactions without seriously considering whether they meet the test of reasonable suspicion.³⁶ On a more positive note, from the perspective of FSA authorised firms, the FSA has also stated that it recognises that identifying suspicious transactions is not an easy task and that it is not realistic to expect that every possible case

will be picked up.³⁶ Those firms subject to the reporting requirements will therefore need to ensure that they have in place systems and procedures to meet the requirements and ensure that front office employees who deal with clients are fully apprised of their obligations in this area.

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References and notes

- 1 Directive 2003/6/EC.
- 2 FSMA, ss. 118A(6).
- 3 SI 2001/996.
- 4 'Regulated market' has the meaning given in Article 1(13) of Council Directive 1993/22/EC. A list of the regulated markets can be found at http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/c_072/c_07220040323en00030007.pdf.
- 5 FSMA, ss. 118A(3).
- 6 MAR, para. 1.2.9.
- 7 FSMA, ss. 118C(2).
- 8 FSMA, ss. 118C(3).
- 9 FSMA, ss. 118C(4).
- 10 MAR, para. 1.2.13.
- 11 DR 2.2.4(1).
- 12 DR 2.2.4(2).
- 13 DR 2.2.5.
- 14 DR 2.2.6.
- 15 Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly. Principle 8 provides that a firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.
- 16 FSMA, ss. 118(3).
- 17 MAR, 1.4.3.
- 18 FSMA, ss. 118(4).
- 19 FSMA, ss. 118(9).
- 20 MAR, para. 1.6.2.
- 21 MAR, para. 1.6.4.
- 22 MAR, para. 1.7.2.
- 23 MAR, para. 1.8.3.
- 24 FSMA, ss. 118(8).
- 25 FSMA, ss. 123(1)–(6).
- 26 FSMA, ss. 123(1).
- 27 FSMA, ss. 123(2).
- 28 FSMA, s. 381.
- 29 FSMA, s. 383.
- 30 MAR, para. 1.10.
- 31 Commission Regulation (EC) of 22nd December, 2003, implementing MAD as regards exemptions for buy-back programmes and stabilisation of financial instruments (no. 2273/2003).
- 32 FSMA, s. 73A, gives the FSA the power to make rules relating to listing and disclosure for the purposes of Part 6 of FSMA.
- 33 The rules governing Substantial Acquisition of Shares issued on the authority of the Takeover Panel.
- 34 Rule 4.2 contains restrictions on dealings by offerors and concert parties.
- 35 SUP, para. 15.10.6(1).
- 36 *Market Watch*, No. 12 (special edition) (2005) June 2005.