

CHANGES TO TIMESCALE FOR NOTIFICATION BY ISSUERS OF PDMR DEALINGS

On Wednesday 21 October, the Financial Services Bill 2019-21 was published and had its first reading in the House of Commons. The Bill is intended to ensure the UK's financial services regulatory framework continues to function effectively after the UK leaves the EU. Alongside a host of provisions relating to prudential standards and benchmark indices, the Bill contains a number of measures relating to PDMR dealings, insider lists and market abuse. The precise timing of when the Bill will become law is uncertain.

Market notification by issuers of PDMR dealings

When the Brexit transition period ends on 31 December 2020, the EU Market Abuse Regulation (**MAR**) will form part of retained EU law and will continue to apply in the UK, subject to the necessary changes to ensure that it operates effectively following the UK's departure from the EU (**UK MAR**).

Article 19 of MAR requires persons discharging managerial responsibility (**PDMRs**) and those persons closely associated with them (**PCAs**) to notify the issuer and the FCA of their transactions in financial instruments related to that issuer. Currently, any notification must be made to the issuer no later than three business days after the date of the transaction in question **and** the issuer is also required to notify the market of such transaction no later than three business days after the date of the transaction. It is recognised that having these two notification requirements running concurrently from the date of the relevant transaction creates a narrow window for issuers to notify the market and can give rise to practical difficulties. The Bill will amend UK MAR to require issuers to disclose transactions to the market within two working days of those transactions having been notified to them by their PDMRs or PCAs. Having the two notification deadlines run consecutively is expected to be a welcome change for issuers.

This change is consistent with changes being made to MAR (as a result of Regulation (EU) 2019/2115) with effect from 1 January 2021.

Insider lists

MAR currently requires issuers **or** any person acting on their behalf or on their account to maintain an insider list (Article 18). The Explanatory Notes to the

Key issues

- Financial Services Bill 2019-2021 makes significant amendments to the UK's legislative and regulatory framework for financial services.
- Issuers will have two working days from the date of receipt of a PDMR dealing notification to notify the market.
- Bill clarifies that issuers **and** any persons acting on their behalf or on their account are required to maintain an insider list.
- Maximum sentence for insider dealing and market manipulation to be increased from seven to ten years.
- Bill will have its second reading in the House of Commons on 9 November 2020.

Bill suggest that the use of “or” has caused confusion as some issuers’ advisers are not sure whether they are required under MAR to draw up their own insider list (i.e., separate to the issuer’s insider list). Accordingly, the Bill makes an amendment to UK MAR to remove this confusion by clarifying who is required to maintain an insider list and establishing that issuers **and** any person acting on their behalf or on their account are all required to maintain such a list. In reality, we do not expect this to result in any change in current practice whereby issuers continue to require their advisers to maintain their own insider list.

Extension of criminal sentence for insider dealing and market manipulation

The criminal market abuse regime in the UK is primarily comprised of the insider dealing offences in the Criminal Justice Act 1993 and the market manipulation offences in the Financial Services Act 2012, each of which is currently punishable by up to seven years in prison. The Bill will increase the maximum sentence for insider dealing offences and market manipulation offences under these respective Acts from seven to ten years.

Timing of changes

The Parliamentary process has commenced and the Bill will have its second reading in the House of Commons on 9 November 2020. The timing of any of the Bill’s provisions coming into force remains uncertain at this stage.

If you would like any further information about any of the matters referred to in this briefing, please contact your usual Clifford Chance contact or either of this briefing’s authors.

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