

FCA Concerns: Personal Account Dealing and Transaction Reporting

Of particular interest to: all firms

Market Watch 62 (MW62) sets out the concerns the FCA has on personal account dealing and on further data issues it has observed in transaction reports.

Personal Account Dealing ('PAD')

The PAD dealing rules appear in COBS 11.7A (or in COBS 11.7 for non-MiFID business) and, in summary, are essentially designed to prevent personal transactions in financial instruments which:

- Are prohibited under the Market Abuse Regulation; or
- Involves the misuse or improper disclosure of that confidential information; or
- Gives rise to a conflict, or potential conflict, with the firm's MiFID obligations.

The FCA expects firms to have appropriate policies, training, oversight and systems and controls in place to adequately manage PAD risks.

MW62 advises that the FCA analyses Suspicious Transaction and Order Reports in conjunction with Transaction Reports. Where further review of a trade by an individual working for an FCA firm is felt warranted, then one action is to consider whether that trade was in compliance with the relevant firm's PAD policy. PAD issues that have come to light include:

- Employees – including front office, compliance and surveillance - deliberately not declaring external accounts to their employer and/or circumventing requirements. This includes operating undeclared accounts in the names of relatives where trades are executed without any input from the named account holders
- Employees in front-office roles not appearing to understand their firm's PAD policy despite having signed attestations that they have read, understand and will comply with those policies
- Firms and employees considering that ignorance of PAD policies provides reasonable mitigation for PAD in breach of that policy

PAD controls found to be put in place by firms included:

- Requiring regular attestations by employees confirming compliance with PAD rules
- Pre-approval of PAD trades or, where no pre-approval is required, placing restrictions on the instruments that can be traded
- Limiting the number of PAD trades that employees can undertake
- Looking for indicators of insider dealing e.g. price movements in the instrument traded

The FCA concludes with a 'Next steps for all firms' requiring firms to consider the points raised in MW62 against their current processes and policies, particularly the monitoring of PAD trades. It is not unknown for the FCA to follow-up at a later date on issues it has previously raised to see what selected firms have done to address FCA concerns.

Transaction Reporting

Our Alert of 1 May (see 'Useful Links') drew attention to the publication of the FCA's comments on common errors and shortcomings that the Markets Reporting Team had identified.

Since that time further data quality issues have been identified and are highlighted in MW62. These include, but are not limited to:

- Inconsistencies between the currency in which the price is expressed (Field 34 – ‘price currency’) and the currency used when reporting the price (Field 33 – ‘price’)
- Inconsistencies between the multiplier (Field 45 – ‘price multiplier’), the amount (Field 30 – ‘quantity’) and the price (Field 33 – ‘price’)
- Inaccurate national identifiers, including priority identifiers e.g. using a concatenation for a UK person (2nd priority identifier) when a National Insurance Number is available (1st priority identifier).
- Incorrect completion of Field 12 – ‘buyer decision maker’ and Field 21 – ‘seller decision maker’. We are reminded that these Fields only apply when the decision maker acts under a power of representation (this term also captures discretionary management). ‘Incorrect completion’ also includes failure to complete the Fields when it would be expected e.g. a transaction by a discretionary asset management firm.

Finally, firms are reminded of the requirement to notify the FCA ‘promptly’ when errors or omissions in a transaction report are identified and of the need to carry out regular reconciliations of trading records with sample transaction reporting obtained from the FCA (Article 15(3) of Regulatory Technical Standards 22 (2017/590) – see ‘Useful Links’).

Useful Links

[Market Watch 62](#)

[Alert - Transaction Reporting Under MiFIR](#)

[FCA facility to request sample transaction reporting data for reconciliation purposes](#)

[RTS 22 - 2017/590](#)

[COBS 11.7A \(MiFID Business\)](#)

[COBS 11.7 \(non-MiFID Business\)](#)