

New market abuse regime: One month to go

May 2016

From 3 July 2016, the new Market Abuse Regulation (MAR) will be brought in across the EU. MAR will have a significant impact on non-EU companies, including Jersey, Guernsey and Cayman Islands companies who trade or have securities listed on the EU financial markets.

The new MAR will have far wider application and include tougher enforcement provisions than the existing Market Abuse Directive. MAR will apply to a wider category of financial markets, to now include both multilateral and organised trading facilities, and new offences have been included such as benchmark manipulation, in response to the recent LIBOR rigging scandals, and in respect of abusive algorithmic or high-frequency trading.

One specific area of note for directors of Jersey, Guernsey and Cayman Islands companies with securities listed on the EU capital markets is the introduction of corporate criminal liability. A company may now be the subject of criminal liability in respect of market abuse offences committed by its 'leading persons', and as a result of a failure of supervision or control of its 'leading persons'. Although the UK has presently opted out of the Directive for criminal sanctions on market abuse (Criminal Sanctions Directive), the UK Government is presently conducting a review of its criminal offences for market abuse, and has expressed an intention to opt-in to the Criminal Sanctions Directive in the not too distant future.

For those Jersey, Guernsey or Cayman Islands companies who trade or have securities listed on the EU capital markets, they should now be looking to update their internal policies and procedures to bring them into line with the new requirements under MAR, to take effect from 3 July 2016.

Should you like any further information about how the new Market Abuse Regulation may impact you or your company, please feel free to contact Collas Crill.

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