EU Market Abuse Regulation - this table below summarising the key changes and action points that listed companies (which include Main Market and AIM companies for the purpose of this briefing) should consider.

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CLARITY MATTERS

	Key changes	Key action points for listed companies

Dealings by PDMRs	• The Model Code has been deleted from the Listing Rules. However, the Financial Conduct Authority (**FCA**) is supportive of an industry-led development of share dealing codes or best practice in this area.
	• MAR sets out new rules on dealings by PDMRs and persons closely associated with them (**PCAs**) (e.g. spouse, partner or child). The main changes are:
	  • **Close periods**: these are now 30 calendar days before the announcement of the company's interim or year-end financial report (previously 60 days under the Model Code).
	  • **Timing of notifications**:
	  ▪ PDMRs must notify the company within three business days of the transaction (previously four days under the DTRs).
	  ▪ The company must in turn make that information public within the same period (i.e. within three business days of the transaction. Previously the end of the business day following receipt under the DTRs).
	  • **Permitted dealings**: the list of circumstances in which dealing is permitted during a closed period has been narrowed to:
	  ▪ the existence of exceptional circumstances, such as severe financial difficulty; or
	  ▪ transactions under an employee share scheme; or
	  ▪ transactions where the beneficial interest does not change.
	  • **Content requirements**: ESMA's technical standards set out the template for the notification of the transaction.
	  • **Threshold for notifications**: transactions only need to be reported once a threshold of €5,000 has been reached within the calendar year by that PDMR. It is unlikely that companies will utilise this exception for dealings by PDMRs.
	• AIM Rule 17 (directors' dealings) will be deleted and replaced with a signpost to the relevant MAR provision.
	• AIM Rule 21 (restrictions on dealings) will be deleted and replaced with a new rule requiring the AIM company to have a dealing policy and setting out the minimum provisions which it should include.
		• Prepare a new share dealing code that is MAR-compliant and, in the case of an AIM company, compliant with AIM Rule 21.
		• Alternatively, update the company's existing share dealing code to address the new changes.
		• Whilst there is no longer the concept of a "prohibited period" which includes any period in which there is inside information, we recommend that the share dealing code expressly restricts dealings by PDMRs when there exists inside information.
		• Consider whether the minimum threshold for notifications will be imposed or whether the code should require all transactions to be notified.
		• Consider whether PDMRs should notify the company within two business days of the transaction to give the company enough time to make its announcement within three business days of the transaction.
		• Compile a list of the company's PDMRs and PCAs, and send them a memo reminding them of their obligations and highlighting the changes (PDMRs should in turn send this memo to their PCAs).

Delaying disclosure of inside information	• MAR retains the concept of allowing issuers to delay disclosure to protect their "legitimate interests" so long as confidentiality can be maintained and the public are unlikely to be misled. As indicated this will not apply to profit warnings and equivalent information in relation to deteriorating financial performance.
	• MAR has introduced more onerous procedures, including requiring listed companies to notify the FCA upon request to explain why their decision to delay disclosure of inside information was justified.
	• ESMA's level 3 guidelines on market soundings and delaying disclosure (**ESMA Guidelines**) set out scenarios in which an announcement cannot be
		• Review the company's procedures for identifying and disclosing inside information, ensuring there is a process in place to determine:
		  • whether information is inside information;
		  • whether disclosure needs to be delayed and for how long;
		  • who is/are responsible for making these decisions;
		  • that the conditions for the

	delayed: • the inside information is materially different from a previous announcement in relation to the same matter; • the inside information relates to the fact that the issuer's financial objectives are likely not to be met, where those objectives were previously announced; and • the inside information is in contrast with the market's expectations, where such expectations are based on signals previously set by issuer. • The ESMA Guidelines also helpfully set out when an announcement can be delayed, for example: • as now, the issuer is participating in negotiations and their outcome would likely be jeopardised; • the financial viability of the issuer is in grave and imminent danger; and • the issuer has developed a product or an invention and the immediate public disclosure of such information is likely to jeopardise the IP rights of the issuer. • AIM companies should be aware that the circumstances which justify delaying disclosure under AIM Rule 11 are narrower than those set out in the ESMA Guidelines.	delay are constantly fulfilled; and • when to end the delay and disclose the information. • Consider whether the board should appoint a disclosure committee, if not already in place. • Ensure proper records are kept, including a written record explaining why delaying the disclosure of inside information was justified. • Ensure that all inside information disclosed to the market is made available on the company's website for at least five years.
Insider lists	• Listed companies and their advisers are required to maintain insider lists (this is a new requirement for AIM companies). There are new rules on the procedures for maintaining insider lists, as well as their content. • Insider lists must now include: • the time at which each insider obtained access of the information; and • details of each insider's professional and personal telephone and mobile numbers, home address, former surnames, date of birth and national identification number (if applicable). • Listed companies are encouraged to draw up multiple insider lists, differentiating between "permanent insiders" (i.e. individuals who have access to inside information at all times) and "deal-specific insiders" (i.e. individuals who are insiders because of a specific piece of information). • ESMA's technical standards set out template insider lists for both permanent and deal-specific insiders. • Listed companies are required to submit their insider list to the FCA upon request. The FCA is expected to publish on its website in due course details on how to submit insider lists electronically to them. • Whilst listed companies are expected, in practice, to rely on their advisers and accountants to draw up their own insider lists, issuers should remember that they will be fully responsible for complying with MAR's requirements on insider lists.	• Review and amend the company's policy on maintaining insider lists to ensure they are MAR-compliant. • Consider having an insider list for deal/information specific matters and another list for permanent insiders. • Review existing insider lists which are likely to still be active following 3 July 2016, to determine what information needs to be updated. • Check whether this additional information is available from existing records. If not, start to obtain it from each insider. • Consider whether there are any data protection issues in relation to obtaining and storing such information, seeking advice where necessary. • Update the company's template insider list so that it is MAR-compliant, following the procedures above. • Ensure that all insiders confirm in writing to the company that they are aware of their legal and regulatory duties, and the sanctions applicable to insider dealing.

Market soundings	• There are new rules on "market soundings" which are communications by issuers (or a third party acting on their behalf, e.g. a director or adviser) to gauge interest in a possible transaction or takeover bid.
	• These are subject to detailed procedures and record keeping requirements, including:
	• assessing whether the disclosure involves inside information;
	  • pre-determining a standard set of information to be provided to ensure all recipients receive the same information;
	  • obtaining the prior consent of the recipient and informing them when the market sounding ceases to be inside information; and
	  • keeping detailed records of the information given and to who.
	• Failure to comply results in an offence of unlawful disclosure.
		• Put in place procedures to ensure compliance with the new requirements on market soundings.
		• Encourage market soundings to be made on a recorded telephone line (for which the receiver must consent to being recorded), to avoid the need to agree a set of minutes with the recipient afterwards.

Scope	• The new regime has been extended to cover a wider range of financial instruments across a wider range of platforms. • The new regime now applies to AIM companies, who will be subject to a two-tier regime overseen by the FCA and AIM Regulation respectively.	• Review and update internal policies and procedures to reflect the new regime. • Brief directors, other PDMRs, insiders and other relevant employees on their obligations under the new regime.
Inside information	• The definition of, and requirement to disclose, inside information is largely unchanged under MAR. • AIM companies will need to comply with the rules on disclosing inside information contained in both MAR and AIM Rule 11. • DTR 1 to DTR 3 have been largely replaced with signposts to the specific MAR provisions. The remaining DTR provisions have been re-labelled as guidance. • The DTRs have been renamed the Disclosure Guidance and Transparency Rules sourcebook.	For AIM companies: • Brief directors and other senior management so they are aware of the two-tier regime. • Be aware that compliance with AIM Rule 11 may not mean the company will have complied with MAR and vice versa.