COMPLIANCE

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# NEWSLETTER

ISSUE 12

Forum Compliance .be

## IN THIS ISSUE:



## SPECIAL POINTS OF INTEREST:

- Barclays pulled into U.S. money laundering investigation
- Twitter's regulatory problems flagged by compliance officers
- Compliments: Kind words or sexual harassment?
- HSBC hires ex-U.K. spy chief Evans to bolster oversight

Dear Members,
Dear Colleagues,

September is back again and with it a new issue of our Newsletter.

We take this opportunity to thank one more time all the speakers who contributed actively to make the Compliance Day of June 14th a success !

Mrs. Merel Pieters of the NBB presented the new draft on "Fit and Proper" requirements in an utmost clear manner. One will remember that the Compliance function has to monitor the correct organisation and the implementation of these duties. The Circular is now final.

Mr. Hein Lannoy debriefed us on the FSMA's inspections on conflicts of interest and emphasized the need for Compliance to be highly involved and preferably upfront in the set up of commercial objectives and incentives to make sure that the initiatives do not conflict with the respect of the rules of conduct. He also provided us with the most important principles of the draft Twin Peaks II which was just published by the Chamber of the Belgian Parliament at that time. His focus was on the three major pillars of the project (enhancement of the oversight and increased powers of the FSMA, extension of duties with the aim to protect the investors of financial products and services, the civil sanctions). Besides the now well known extension of certain provisions of MiFID I to the insurance sector, one will also have noted the impact on spare accounts. I just add that draft Royal Decrees have been published during the summer .

With brio, Mr. Yannick Ramakers updated us on FATCA in a very alive manner and drew specifically our attention on the client identification/due diligence procedures for both pre-existing and new accounts and that in the light of the draft IGA. It is worthwile to point out that since then FATCA has been postponed (June 2014 instead of January) which will give us a bit more room to proceed with the registration process, the appointment of a Responsible Officer and the proper set up of a Compliance Programme.

Mr. Marc Taeymans, Legal Director with BNP Paribas Fortis, highlighted in a very professional manner the content of the draft law on class actions comparing it with the situation which exists with our neighbours. He insisted on specific points of attention especially for Compliance Officers (competition rules, misleading marketing communication, privileged information, data leakage...). One would have to acknowledge the more than ever need to dedicate time to the clients' claims and the ombudsmen (internally and externally). A nearly final draft of this new law was made available this summer.

The afternoon was dedicated to the workshops on which we got very good feed-back too.

Mr. Gerd Goyvaerts from Thiberghien, supported by a detailed set of slides, offered us a critical view on the new repatriation law which is in force since mid-July.

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He also mentioned the most probable need for financial institutions to file more FIU statements at least as of 2014. One understood the difficulty for the financial sector to combine this law with the recent change of AML law on serious tax fraud. Around mid-August, several stakeholders discuss within Febelfin how to define the concept via Royal Decree to ensure a level playing field within the limits of the existing legislation.

Mrs. Alexandrine Henriet, Chief Compliance Officer Generali, gave us some useful tips within the three lines of defense to enhance the monitoring in the insurance sector (how to detect deficiencies via samples controls, KRIs, interviews, reportings from the first line and Audit reports ? Design and effectiveness being approached risk based).

Mrs. Caroline Veris, FSI Regulatory Risk and Compliance, Deloitte, also provided pertinent advices on the monitoring of Best Execution which remains uneasy as far as bonds are concerned.

Last but not least, Mr. Etienne Dessy, Barrister with Linklaters, presented a very practical and detailed tree to help managing the information to clients whether this is marketing information, investment research or investment recommendations.

Among the other news, one may wish to refer to:

- MIFID II, last draft level one is expected now by December 10. In the summer, another version of the Presidency was made available. IFE has scheduled its annual conferences on the topic with the participation of representatives of the FSMA at the end of the year (December 12 and probably 17).

- The Parliamentary vote of PRiPs is expected on October 22. In between, it seems that the scope compared to the original one might be broadened .

- MAD and MAR. The Council confirmed agreement with EP on market abuse regulation this summer.

- The codification of various aspects of insurance topics (segmentation, limitation in underlying investments of "branches" 23..) is to be followed up as well as IMD (end of trialogue expected on October 8th).

- The FSMA's inspections on suitability/appropriateness/execution only have started. The FSMA has also published its annual report .

- IFE organizes its annual conference on AML and on Compliance respectively on December 3 and 4.

As weekends give room for reading (as everyone know Compliance Officers do not have to read anything outside this period), I take the liberty to recommend you the "Cahiers AEDBF/EVBFR", nr 26, Antemis/Intersentia 2013 on the 20 years of the banking law. You will find plenty of interesting views from various authors and an article of our colleague Inez De Meuleneere from BNP Paribas Fortis, about the new Compliance Circular: "Compliance in een nieuw regelgevend kleedje".

A last point: the next Seminar of the Forum is foreseen on November 14th (a half day/morning). Book it in your agenda please !

And as always, enjoy the reading !

With kind regards.

Marie-France De Pover

Chairwoman

**The next Seminar of the Forum is foreseen on November 14th**

## ESMA PUBLISHED UPDATED Q&A ON EMIR IMPLEMENTATION

On August 5, 2013 the European Securities and Markets Authority (ESMA) published an updated questions and answers document (Q&A) on the implementation of the regulation on OTC derivatives, central counterparties and trade repositories (EMIR). The Q&As aim to ensure that the activities and actions of competent authorities under the regulation are converging along the lines of the responses adopted by ESMA, and help investors and other market participants by providing clarity on the requirements under EMIR.

## EIOPA'S INSURANCE AND REINSURANCE STAKEHOLDER GROUP PUBLISHED POSITION PAPER ON IMD 2

The European Insurance and Occupational Pensions Authority's (EIOPA's) Insurance and Reinsurance Stakeholder Group has recently published a position paper setting out its position on the proposed Insurance Mediation Directive (IMD 2). The paper covers the scope of the proposal, transparency, conflict of interest/ remuneration, cross-selling practices, PRIPs, and cross-border operations.

## SEC BARS FORMER GOLDMAN BANKER OVER PAY-TO-PLAY SCHEME

**An indirect contribution to a political campaing creates a conflict of interest**

Under its pay-to-play rules, the Municipal Securities Rulemaking Board (MSRB) requires municipal securities dealers to disclose certain information in connection with political contributions they make to governmental issuer officials, state and local political parties, and bond ballot referendum committees.

The MSRB makes all political contribution disclosure documents available to the public. These rules, created in 1994, were the first in the financial industry and altered the relationship between dealers – and those that work on their behalf – and the awarding of bond business based on campaign donations.

On May 23, 2013, the US Securities and Exchange Commission ordered Neil M.M. Morrison, a former investment banker at Goldman, Sachs & Co., to pay a civil money penalty of $100,000 and barred him from the securities industry with the right to apply for reentry after five years for his role in a "pay-to-play" scheme involving undisclosed campaign contributions to then-Massachusetts state Treasurer Timothy P. Cahill while he was a candidate for governor.

According to the SEC's order, Morrison was a vice president in the firm's Boston office and solicited underwriting business from the Massachusetts Treasurer's Office beginning in July 2008. Morrison also was substantially engaged in working on Cahill's political campaigns from November 2008 to October 2010. Morrison at times conducted campaign activities from the Goldman Sachs office during work hours and using the firm's phones and e-mail. Morrison's use of Goldman Sachs work time and resources for campaign activities constituted valuable in-kind campaign contributions to Cahill that were attributable to Goldman Sachs and disqualified the firm from engaging in municipal underwriting business with certain Massachusetts municipal issuers for two years after the contributions.

Nevertheless, Goldman Sachs subsequently participated in 30 prohibited underwritings with Massachusetts issuers and earned more than $7.5 million in underwriting fees. Goldman Sachs settled similar charges with the SEC in September 2012 by agreeing to, among other things, pay over $8.2 million in disgorgement and

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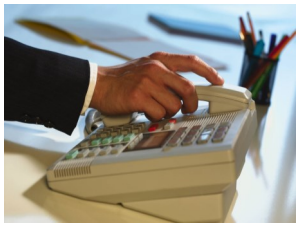
## SEC BARS FORMER GOLDMAN BANKER OVER PAY-TO-PLAY SCHEME (PART II)



prejudgment interest, and a $3.75 million penalty, the largest ever imposed by the SEC for MSRB pay-to-play violations.

This marks the first SEC enforcement action sanctioning an individual for violating the MSRB pay-to-play rules through "in-kind" non-cash contributions to a political campaign. Morrison agreed to settle the charges by paying a $100,000 penalty, which is the largest ever imposed by the SEC against an individual for violating, or causing the violation of, the MSRB pay-to-play rules.

## J.P. MORGAN FINED FOR SYSTEMS AND CONTROLS FAILINGS IN ITS WEALTH MANAGEMENT BUSINESS

The UK Financial Conduct Authority (FCA) has fined J.P. Morgan International Bank Limited (JPMIB) £3,076,200 for systems and controls failings relating to its provision of retail investment advice and portfolio investment services.

The failings persisted for two years and were not corrected until the FCA brought them to the firm's attention in the course of its thematic review into wealth management firms and the suitability of their advice. The FCA identified a number of issues with JPMIB's processes and an inability to demonstrate client suitability from its client files.

During this period, JPMIB's senior management did not have sufficient information and oversight tools to identify and address these deficiencies. Although no detriment to customers has been identified to date, the failings exposed customers to the risk that they would be given incorrect advice and inappropriate investments.

Among the issues identified by the FCA were:

- client files which were not kept up to date or that did not retain important client suitability information (e.g. client objectives, capacity for loss and investment experience);
- a computer-based record system that did not allow sufficient information to be retained;
- suitability reports that failed adequately to contain a statement of the client's demands and needs, explain why the investment was suitable to meet those needs or indicate any disadvantages of the investment; and
- communications to confirm client suitability profiles were not always sent to the client (as required by JPMIB's own policy).

In addition, JPMIB did not ensure that there was adequate risk and compliance monitoring and oversight of its business. While some issues were identified by monitoring, they were not adequately addressed until after February 2012.

After the FCA identified potential failings at JPMIB, it instructed the firm to appoint a Skilled Person to conduct an assessment of the adequacy and effectiveness of the firm's systems and controls. Its report found a number of deficiencies, including most of those set out above. JPMIB subsequently took prompt action to resolve the issues and improve its systems. It also undertook a significant overhaul of its suitability processes.

**Firms which fail to keep the right records expose their clients to the risk of inappropriate investments**

## TRACFIN A PUBLIE SON RAPPORT ANNUEL 2012

Dans son rapport annuel, Tracfin (la cellule française de lutte contre le blanchiment de capitaux et le financement du terrorisme) revient sur l'activité forte de 2012 et dresse un panorama de dix affaires ayant marqué l'année (escroquerie aux organismes de complémentaire de santé, détournement de fonds publics, blanchiment et recel de métaux volés,

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## TRACFIN A PUBLIE SON RAPPORT ANNUEL 2012 (PART II)

abus de confiance et abus de biens sociaux par un agent d'assurances...).

L'année 2012 a été marquée pour Tracfin par une nouvelle hausse de son activité déclarative et de transmissions aux interlocuteurs habilités:

- plus de 27.000 informations reçues (+13 % par rapport à 2011) ;
- 34.695 actes d'investigations réalisés (+33 % par rapport à 2011) ;
- 1.201 notes d'information transmises (+13 %) dont 522 vers l'autorité judiciaire pour des montants en jeu estimés à plus d'un milliard d'euros ;
- 167 notes d'information transmises (contre 96 en 2011) à la direction générale des finances publiques, renforçant leur collaboration.

En 2012, Tracfin a vu s'amplifier plus particulièrement l'utilisation de substituts à l'argent liquide (monnaie électronique, or, titres-restaurants) et a constaté une vulnérabilité accrue des entreprises en difficulté au risque d'ingérence de capitaux criminels. Cette tendance met, en lumière la croissance de l'usage de moyens frauduleux par certaines entreprises et leurs gérants, fragilisés par la crise, pour se procurer des fonds dans un contexte de difficultés économiques.

2012 a aussi été l'année de la signature du protocole d'échanges d'informations avec les organismes sociaux. Pour cette première année de mise en œuvre, 45 dossiers portant un soupçon de fraudes ont été transmis aux organismes sociaux pour un enjeu global de près de 14 millions d'euros.

## U.S. ACCUSES LIBERTY RESERVE SA - A COSTA RICA-BASED COMPANY - OF LAUNDERING $6 BILLION

On May 28, 2013, the U.S. Department of the Treasury named Liberty Reserve S.A. as a financial institution of primary money laundering concern under Section 311 of the USA PATRIOT Act (Section 311). This is the first use of Section 311 authorities by Treasury against a virtual currency provider.

Liberty Reserve is a web-based money transfer system or "virtual currency." It is currently registered in Costa Rica and has been operating since 2001. Liberty Reserve uses a system of internal accounts and a network of third-party intermediaries or exchangers to move funds. Operating under the domain name "www.libertyreserve.com," Liberty Reserve maintains accounts for registered users, which are funded through exchangers. Registered users typically send a bank or non-bank wire transfer to an exchanger, who then transfers the corresponding value of Liberty Reserve virtual currency from the exchanger's account to the user's account. Once an account is established, transfers can be made from account-to-account instantly and anonymously.

Withdrawal of funds requires a user to instruct Liberty Reserve to send transfer value from the user's account to the account of an exchanger, who then transfers the value as U.S. dollars or other currency as a bank or non-bank wire transfer to the user or to other recipient(s). Exchangers operate as independent money service businesses globally, charging a commission on each transfer of funds into or out of the Liberty Reserve currency.

Liberty Reserve's virtual currency appeals to illicit users because it provides the capability to conduct anonymous transactions around the world.

Liberty Reserve does not conduct verification of account registration for individuals using the system, asking only for a working e-mail address, and allow an individual to open unlimited number of accounts.

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**The system of payments allowed users to open accounts under false names**

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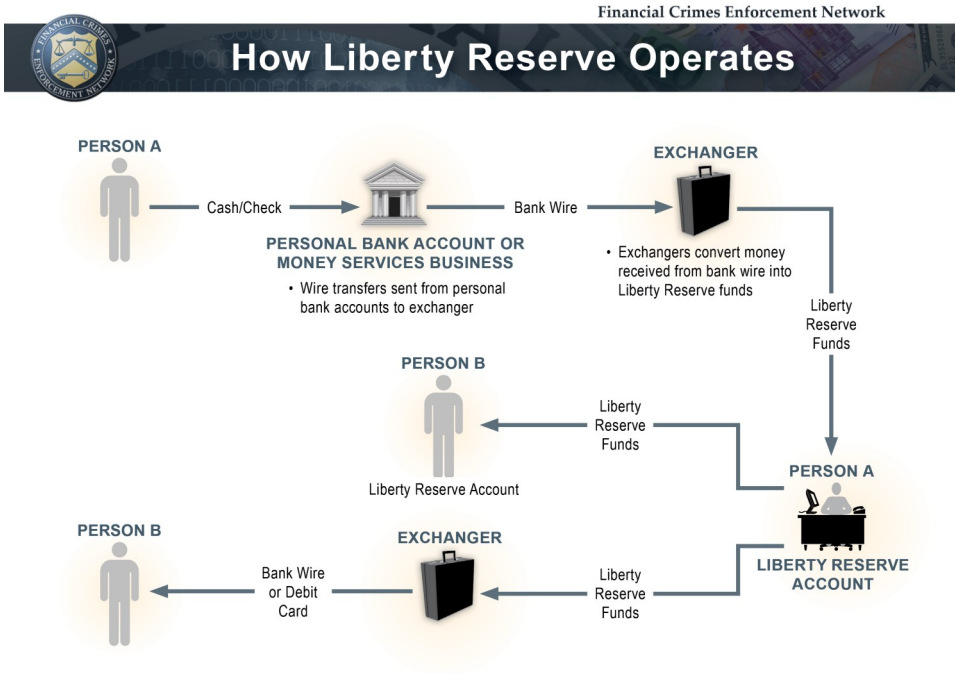
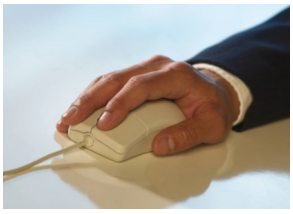
## U.S. ACCUSES LIBERTY RESERVE SA - A COSTA RICA-BASED COMPANY - OF LAUNDERING $6 BILLION (PART II)



By paying an additional "privacy fee," users can hide their internal unique account number when sending funds within the Liberty Reserve system. Once an account is established, Liberty Reserve virtual currency can then be sent, instantly and anonymously, to any other account holder within the global system. For example, a cyber-criminal online marketplace would accept payment in Liberty Reserve transfers for illicit activity that included spam services and key-logging programs used to steal personal information, such as account numbers and passwords, from innocent victims. Also for anonymous sale were destructive malware programs designed to assault financial institutions, as well as lists of information from thousands of compromised personal accounts.

Liberty Reserve is widely used by criminals worldwide to store, transfer, and launder the proceeds of a variety of illicit activities. Liberty Reserve's virtual currency has become a preferred method of payment on websites dedicated to the promotion and facilitation of illicit web based activity, including identity fraud, credit card theft, online scams, and dissemination of computer malware. It has sought to avoid regulatory scrutiny while tailoring its services to illicit actors. Treasury's regulatory action was taken in cordination with the unsealing of an indictment by the U.S. Attorney's Office for the Southern District of New York, which charged Liberty Reserve and seven of its principals in Manhattan federal court for their alleged roles in running a $6 billion money laundering scheme and operating an unlicensed money transmitting business.

Treasury's Financial Crimes Enforcement Network (FinCEN) has delivered to the Federal Register a regulatory finding explaining the basis of the actions as well as a notice of proposed rulemaking ("NPRM") that would prohibit covered U.S. financial institutions from opening or maintaining correspondent or payable-through accounts for foreign banks that are being used to process transactions involving Liberty Reserve.

The NPRM also proposes to require covered financial institutions to apply special due diligence to their correspondent accounts maintained on behalf of foreign banks to guard against any transactions involving Liberty Reserve.

**Liberty Reserve had more than a million users worldwide**

# GOLDMAN STANDARDS REVIEW REFLECTS NEW COMPLIANCE LANDSCAPE

Goldman Sachs' report on new business ethics and practices voiced lofty ambitions. But it also articulated higher standards on issues such as reputational risk, suitability and conflicts of interests, which are increasingly demanded by customers, regulators and investors.

"Our clients' interests always come first," the report's opening line says. It adds, "our experience shows that if we serve our clients well, our own success will follow." The report's standards address relationships with clients and conflicts of interest, with emphasis on ensuring that clients understand the complex structured products and derivatives transactions they are dealing in. Practices for client transparency and disclosure, and firm governance and training are also specified.

The report's standards encompass a wide range of themes, and there are numerous specific policies which can apply to many organizations besides Goldman Sachs.

### Types of standards

- Pre-transaction sales practices, involving heightened due diligence before a trade is executed;
- Product and client suitability, by comprehensive standards for product and transaction approvals;
- Disclosure and control standards for riskier trades with client, including for conflicts of interest;
- Documentation that is more standardized and organized around escalation of potential violations;
- Employee performance reviews and rewards that assess reputational risks, provision of training.

### Policies

Suitability of Clients and Products

- Classify clients into clear segments, such as professional investors, institutional investors and high net worth accounts. These will allow application of clearly demarcated suitability standards.
- Develop a framework to assess if a client has experience and capacity to understand possible outcomes of a transaction. This particularly applies for transactions that are complex or material to the client.
- Senior levels must vet complex new products before the firm engages in them, to assess if appropriate for the market or certain customer segments, and that the risk factors are addressed and disclosed.
- Adopt automated suitability tools to assess suitability, including the types of transaction that a client is pre-approved to transact. Highlight the escalation process for any transactions that are not covered, with clear method to apply.
- Ensure that the investment objectives of high-net worth accounts cover client return objectives and risk appetites. Describe objectives and risk implications in plain language. To utilize these, further information may need to be collected on each client's financial position, portfolio goals, risk tolerance and experience.

Conflicts of Interest and Disclosure

- Clearly communicate with clients on any potential conflicts, and inform investment banking clients of other activities that the firm may continue to perform while acting as an advisor.
- Ensure that marketing materials, client onboarding documentation and client reporting procedures are consistent with the firm's suitability and conflicts policy, as well as being user-friendly and in plain language.
- Perform post-transaction analysis of structured products and derivatives deals conducted with clients. The firm's relationship manager should communicate the performance to clients where appropriate.

Disclosure standards for offering documents should

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**Regulators now expect banks to assess product suitability**

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## GOLDMAN STANDARDS REVIEW REFLECTS NEW COMPLIANCE LANDSCAPE (PART II)

include a visible and readable discussion of risk factors. They should identify risks arising from product structure, leverage and underlying assets. Investment vulnerability from changes in the level of market, credit and reputational levels must also be disclosed.

• Procedures must prevent "wall crossing" between departments in the firm that have a relationship with the client or interest in the client's activity. Regular surveillance of information barriers and an updated list of restricted securities should be maintained.

• Disclose balance sheet assets by business unit and level of liquidity. Add information to public filings on the firm's liquidity and risk management structure and processes, including practices to mitigate operational risks.

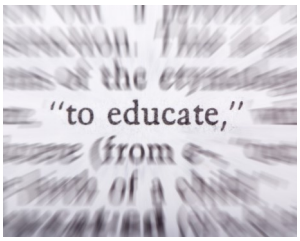
Performance and Training

• Revise annual performance review process to place renewed focus on reputational matters.

• Give training to staff on conflicts of interest and suitability. Include content in staff orientation and promotion programs. Develop new training content courses and provide online delivery to staff.

• Senior management must regularly reinforce the firm's culture of reputational and ethical excellence.

Other large firms have made improvements in practices similar to Goldman. However, the principles of better communication also apply to smaller firms serving retail investors. Such firms may consider whether revised standards would improve their compliance posture with regulators and limit their reputational risks.




## FCA FINES US BASED OIL TRADER US $903,176 FOR MARKET MANIPULATION

On July 3, 2013, the Financial Conduct Authority (FCA) has fined US based High Frequency Trader, Michael Coscia, US $903,176 (£597,993) for deliberate manipulation of commodities markets.

This is the first time the FCA has taken enforcement action against a High Frequency Trader, and reflects the FCA's objective of enhancing the integrity of the UK's financial markets.

Between 6 September 2011 and 18 October 2011 Coscia used an algorithmic programme of his own design to instigate an abusive trading strategy known as "layering".

During this time, Coscia placed thousands of false orders for Brent Crude, Gas Oil and Western Texas Intermediate (WTI) futures from the US on the ICE Futures Europe exchange (ICE) in the UK.

Taking advantage of the price movements generated by his layering strategy, Coscia made a profit of US $279,920 over the 6 week period of trading at the expense of other market participants - primarily other High Frequency Traders or traders using algorithmic and/or automated systems.

Coscia is not a member of ICE or an FCA Approved Person, and traded from the US through a Direct Market Access (DMA) provider. The penalty reflects the serious nature of the deliberate market abuse and the significant impact on ICE, as well as depriving Coscia of the financial benefit derived from this activity.

The US regulator, the Commodities and Futures Trading Commission (CFTC) and the Chicago Mercantile Exchange (CME) announced that they have imposed fines for similar market manipulation by Coscia on US markets.

The FSA's publication Market Watch, Issue No.33 provides FSA commentary on Manipulation of the order book – "layering and spoofing".

**The use of algorithms was deliberately designed to abuse the market, undermining its integrity**

## MIFID: EU COMMISSION PUBLISHED QUESTION AND ANSWER ON FOREIGN EXCHANGE CONTRACTS

The EU Commission has published on July 22, 2013 a question and answer on rolling spot foreign exchange contracts under the Markets in Financial Instruments Directive (MiFID).

**Question**

Does a rolling spot Foreign Exchange on margin take the form of a derivative contract or contract for difference to be considered financial instrument under MiFID ?

**Answer**

As opposed to spot trading where there is immediate delivery, a rolling spot FX contract can be indefinitely renewed and no currency is actually delivered until a party affirmatively closes out its position.

This exposes both parties to fluctuations in the underlying currencies.

Hence rolling spot foreign exchange contracts are a type of derivative contract (i.e. either a forward or a financial contract for difference) relating to currencies and are considered financial instruments as defined under MiFID.

## ESMA AND ACER STRENGTHEN THEIR COOPERATION

The Agency for the Cooperation of Energy Regulators (ACER) and the European Securities and Markets Authority (ESMA) have put in place an agreement for their cooperation and exchange of information.

The ACER Director, Alberto Pototschnig, and ESMA's Chair, Steven Maijoor, have signed on July 18, 2013 a Memorandum of Understanding which establishes a consistent system for exchanging information when the regulatory responsibilities of both EU bodies coincide in relation to wholesale energy markets, which encompass trading in commodity and derivatives contracts.

Alberto Pototschnig defined this MoU as "a milestone to foster a coordinated and consistent approach in the fight against market abuse on wholesale energy markets at Union level".

Steven Maijoor, welcoming the signing, said "this agreement reflects our desire to ensure that both investors and the integrity of our markets are protected from the effects of market abuse."

The cooperation envisaged under the MoU is likely to take place in relation to areas of common regulatory concern including:

- the implementation of legislation on market abuse under MAD and REMIT and on data collection under MiFID, EMIR and REMIT or that impacting on the overall functioning of EU wholesale energy markets;
- establishing consistent, efficient and effective regulatory practices and ensuring the common, uniform and consistent application of Union legislation;
- enhancing the efficiency and effectiveness of market monitoring activities of competent authorities; and
- the use of information technology for data collection.

Cooperation will primarily be achieved through on-going consultations, exchange of information and mutual participation in meetings of ACER and ESMA working groups and task forces.

**Cooperation and exchange of information will help to prevent market abuse on wholesale energy markets**

## INSPECTIONS DE LA FSMA RELATIVES AUX CONFLITS D'INTÉRÊTS

La FSMA a publié, le 3 juillet 2013, ses constatations et positions à propos des inspections relatives aux conflits d'intérêts liés à la rémunération et aux objectifs commerciaux.

La FSMA a constaté que bon nombre d'entreprises n'appliquaient pas suffisamment les règles en matière de conflits d'intérêts.

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## INSPECTIONS DE LA FSMA RELATIVES AUX CONFLITS D'INTÉRÊTS (PART II)

Dans la pratique, les problèmes surviennent davantage lors de la détermination et de l'imposition des objectifs commerciaux incitant les collaborateurs à vendre des produits d'investissement déterminés que lors de l'octroi d'une rémunération variable.

Les entreprises ont certes développé une politique en matière de conflits d'intérêts, comme la loi l'exige, mais cette politique n'est pas toujours mise en pratique.

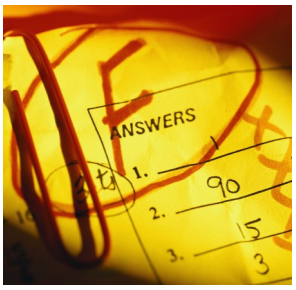
Lors de ses inspections, la FSMA a constaté que le département de compliance n'était bien souvent impliqué que de manière limitée dans la détermination des rémunérations variables, des incentives et des objectifs commerciaux. La FSMA estime très important que le département de compliance soit impliqué dans ce processus, afin qu'il puisse vérifier si ces rémunérations, incentives et objectifs commerciaux ne remettent pas en question le respect des règles de conduite.

La FSMA a également constaté que des collaborateurs commerciaux prenaient contact avec des clients afin de leur proposer de 'sortir' anticipativement d'un produit non encore arrivé à échéance pour 'entrer' dans un autre produit d'investissement ou d'épargne nouvellement mis sur le marché. Un tel 'conseil d'arbitrage' peut servir les intérêts du client. Mais il arrive souvent que les collaborateurs eux-mêmes aient un intérêt dans cette initiative parce qu'elle leur permet de se rapprocher de leurs objectifs commerciaux. Les risques de conflits d'intérêts que comportent de tels conseils d'arbitrage sont dès lors réels.

De nombreuses entreprises prévoient, dans leur politique de gestion des conflits d'intérêts, des dispositions relatives aux cadeaux offerts ou reçus dans le cadre de leurs relations avec les clients. Lors de ses inspections, la FSMA a relevé plusieurs cas de donations de clients en faveur de chargés de relation. Les montants sont généralement modestes, mais il peut également s'agir de donations assez importantes. Compte tenu des risques de conflits d'intérêts que comportent manifestement ces pratiques, la FSMA estime que les entreprises doivent fixer clairement les limites dans lesquelles des cadeaux de clients peuvent être acceptés. .

Les clients reçoivent généralement des informations de base sur la politique de gestion des conflits d'intérêts, mais dans certains cas, ces informations sont trop limitées pour permettre au client d'avoir une vue concrète de la politique de l'entreprise.

Enfin, la FSMA insiste pour que les entreprises accroissent leurs efforts de formation en la matière et veillent à ce que ces efforts se traduisent également sur le terrain.




**Les commerciaux ne sont pas suffisamment conscients des conflits d'intérêts potentiels avec leurs clients**

Pour nous transmettre vos suggestions d'articles ou pour vous désabonner de la Newsletter une seule adresse : info@forumcompliance.be
Maak ons uw suggesties over artikelen over of laat u schrappen van de distributielijst van deze Newsletter op volgend adres : info@forumcompliance.be