

WMBA and LEBA Response to FSA Guidance Consultation "Transaction Reporting User Pack"

Introduction

The Wholesale Markets Brokers' Association (WMBA) and the London Energy Brokers' Association (LEBA) (*together* "WMBA") are the European Industry Associations for the wholesale intermediation of Over-The-Counter (OTC) markets in financial, energy, commodity and emissions markets and their traded derivatives. Our members are Limited Activity/Limited Licence firms (under CRD) that act solely as intermediaries in the said wholesale financial markets. As Interdealer Brokers (IDBs), the WMBA members' principal client base is made up of global banks, primary dealers and energy companies. The comments below should be seen in the context of WMBA members acting exclusively as intermediaries, and not as own account traders. (Please see www.wmba.org.uk and www.leba.org.uk for information about the associations, its members and products.)

Overview

WMBA members recognise the importance of an effective reporting regime which supports the FSA in meeting its statutory objectives regarding the detection of market abuse and prevention/detection of financial crime. Subject to the comments detailed below, WMBA agrees that the new user guide clarifies and consolidates existing guidance in respect of the transaction reporting requirements in Chapter 17 of the Handbook Supervision Manual (SUP 17)

Detailed Comments

9.6.2 Transactions involving portfolio managers - Relying on a third party to report

The proposed wording of 9.6.2 states that "the firm can rely on the other party to make the transaction report **on behalf of** the firm and will not need to make a separate report to us".

Whereas the current wording of Sup 17.2.2 (2) states "Providing the firm has reasonable grounds to be satisfied that the other person **will, in respect of the transaction, make a transaction report to the FSA** (or to another competent authority) which, as to content, will include all



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such information as would have been contained in a transaction report by the firm (other than the identity of the firm's client).

As you will see from the comparison of the two paragraphs, the proposed wording in 9.6.2 creates an agency obligation on the firm whereas SUP 17.2.2 provides the Portfolio Manager with an exemption from transaction reporting where the third party is reporting the trade as principal.

Whilst we do not believe that it was the FSA's intention to change the legal relationship between our members and Portfolio Managers we would welcome clarification in this respect and the wording in 9.6.2 to be amended to reflect that contained in SUP. 17.2.

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