

## FCA Enforcement and Insider Dealing

Wednesday 15<sup>th</sup> May 2024

BACFI

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# Agenda

Current FCA enforcement approach



Insider dealing - a key focus



Corporates, the innocent victims?



*R v Zina*



*R v Bayes*

# FCA Approach to Enforcement

- Therese Chambers is joint executive director of enforcement and market oversight.
- Key messages:
  - FCA enforcement strategy will evolve to make sure the FCA have maximum impact in deterring misconduct and crime.
  - Enforcement is just one FCA tool – industry cooperation, assertive supervision and intervention powers are also key in dealing with harm.
  - The FCA intend to speed up investigations to thwart criminals and send a signal to markets and consumers.
  - The FCA want industry to work with them to stop opportunistic market abuse and its corrosive effects.



# Insider Dealing



Insider Dealing is a criminal offence under Criminal Justice Act 1993.

Insider dealing means trading on significant information that the dealer knows but other market participants do not. The dealer thereby profits from the fact that the price at which he is buying or selling securities does not reflect the information that he holds.

In essence it is cheating.

# Insider Dealing – Real Examples

- Ivan Boesky
- Alexei Koval
- Fabiana Abdel-Malek
- Martyn Dodgson and Andrew Hind

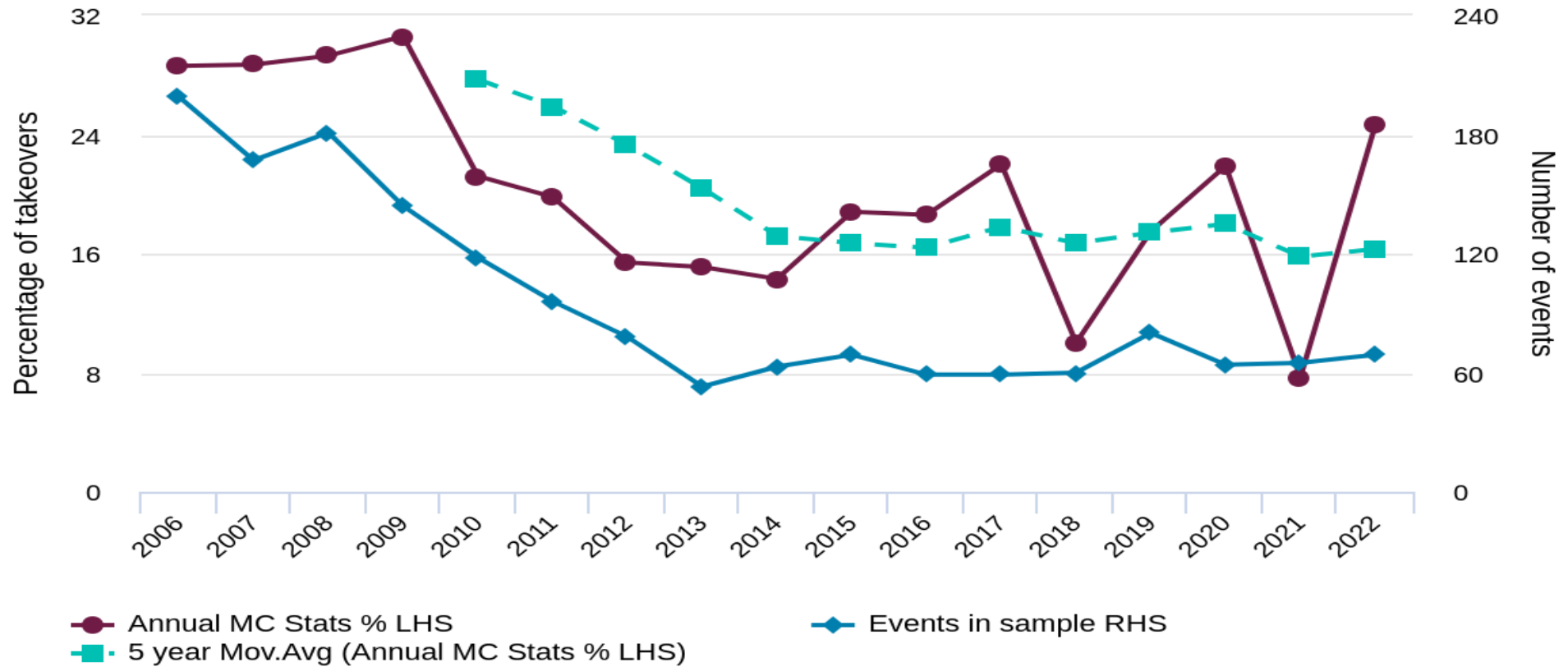


UBS

# Market Cleanliness

Figure 1: Annual Market Cleanliness Statistics and number of events per year (2006 – 2022)

Source: Market cleanliness statistics



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# Abnormal Trading Volume (ATV)

Figure 2: Abnormal Trading Volume Ratio over time 2018 to 2022

Source: Market cleanliness statistics



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# Trading on the financial markets

Types of trading that may be carried out with inside information

Buying and  
selling shares

Contracts for  
difference -  
CFD

Spread bets

Options

Commodities  
trading

Emission  
allowances



# Insider Dealing & Organised Crime

Market Watch 77 issued February 2024.

The FCA have highlighted suspicious trading by members of OCGs.

- a pattern of trading before merger and acquisition (M&A) announcements, and before press speculation about M&A
- pro-active recruitment of sources of inside information
- the use of intermediaries who broker inside information
- using umbrella accounts at overseas broking firms, which do not display equivalent standards of safeguards to UK firms, and through which the identities of the account holders may be masked
- the use of facilitators, including employees of authorised firms, to open accounts with such overseas firms
- feeding stories about mergers and acquisitions, both true and false, to major financial media outlets, to benefit from the ensuing price movements

# Corporates, innocent victims?



Reputational damage



Repercussions for share prices where publicly traded company



Disruption caused by investigation



Loss of staff



Costs

# How to prevent leaks of inside information?

- There are many ways which can be used to control the information:
  - Information walls;
  - Use of insider lists;
  - Marking documents/emails as price sensitive;
  - Staff dealing rules (for example asking staff to obtain approval for proposed trades in other plastics companies ahead of trading);
  - Staff training; and
  - Imposition of confidentiality obligations on third parties.


# R v Mohammed Zina

February 2024

Goldman Sachs analyst found guilty of 6 offences of insider dealing and 3 offences of fraud.



Zina had used a £96,000 Tesco home improvement loan to bankroll his trading in stocks and shares using inside information about mergers and acquisitions that were being handled by his employer.



Profit £140,000.



Sentence 22 months' imprisonment.

# R v Stuart Bayes

March 2024

Mr Bayes was employed as a site manager at UK plastic manufacturer, RPC Group Plc (RPC). Through his employment he obtained 'inside information', that RPC were about to announce the acquisition of British Polythene Industries (BPI).



Between 2 May 2016 and 8 June 2016, ahead of the market announcement that RPC had agreed to buy BPI on 9 June 2016, Mr Bayes undertook increasingly aggressive trading in BPI shares. He also encouraged a further individual to trade in BPI shortly before market close on the 8 June.



On 9 June Mr Bayes closed his position realising a profit of just over £132,000.

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Represented senior government officials at the request of the Ministry of Justice in a Serious Fraud Office investigation into fraudulent activity in the operation of supplier contracts.



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Represented company registered on London Stock Exchange in relation to suspected fraud linked to wholesale gas trading and electricity markets.



Advised a multinational pharmaceutical company who suspected an employee led fraud against customers.



Advised a travel company in a long running fraud undertaken by the Finance Director.

- Francesca represents companies and individuals in complex, high value, multi-jurisdictional white collar crime litigation.
- Francesca advises business leaders at times of crisis when they are caught up in high profile investigations or prosecutions conducted by the Serious Fraud Office, Her Majesty's Revenue and Customs, the Financial Conduct Authority, the National Crime Agency or the Crown Prosecution Service.

# Questions or Comments?