

# FCA Bulletin Highlights Risks Of Leaking Inside M&A Info

By **Juliette Mills and Alix Prentice** (April 24, 2025)

In Primary Market Bulletin 54, issued by the Financial Conduct Authority on March 14, the Competition and Markets Authority addresses concerns regarding the deliberate and inadvertent leaking of material and price sensitive information during live merger and acquisition transactions.[1]

Such leaks, whether intentional or inadvertent, can lead to significant share price movements and disrupt market integrity.

PMB 54 emphasizes that individuals involved in these transactions must handle inside information with utmost care to prevent such unlawful disclosures. One of the main concerns the FCA has regarding such intentional disclosures is that there exists a culture that views the strategic leaking of insider information during transactions as permissible.

## Inside Information and Unlawful Disclosure

The U.K. Market Abuse Regulation, or MAR, defines and prohibits market manipulation. It sets out the regulatory framework and consequences of inside information and unlawful disclosure.

The offense of insider dealing breaks down into two aspects:

- Dealing on the basis of insider information; and
- The unlawful disclosure of inside information.

The MAR provides that both intentional and inadvertent leaks of inside information are serious offenses. Additionally, in PMB 54, the FCA reminds regulated firms and individuals of their obligations under the FCA Code of Conduct Rules, to ensure in particular that they operate with integrity and maintain rigorous standards to avoid enforcement actions by the FCA.[2]

Under the MAR, Article 10, unlawful disclosure is where a person possesses inside information and discloses that information to any other person "except where the disclosure is made in the normal exercise of an employment, a profession or duties." [3]

These leaks can cause significant movement in share prices and trigger the improper dissemination of information, damaging the smooth operation and integrity of markets.

Unlawful disclosure of inside information is prohibited under Article 14 of the MAR: "A person shall not ... unlawfully disclose inside information," and applies to all individuals, regardless of whether they work for or are otherwise connected with FCA-regulated firms, and not just employees of those regulated firms and issuers.[4]

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Juliette Mills



Alix Prentice

The FCA has previously emphasized the importance of preventing unlawful disclosure and curbing market abuse. It continues to express concern that some market participants are handling inside information poorly and are not taking adequate measures to prevent leaks.

Additionally, there is a growing concern that a culture has emerged where leaking inside information during transactions is seen as acceptable. The FCA warns that any individual who discloses inside information, whether intentional or not, may face investigation for market abuse.

In PMB 54, the FCA reminds issuers and their advisers of the following.

### ***Enhanced Vigilance***

Increased caution should be exercised in managing inside information, ensuring robust procedures are in place to prevent leaks. As a general proposition, the FCA is keen to see that procedures are rigorously tested, subject to challenge and embraced at executive level.

### ***Reminder of Legal Obligations***

All parties to a transaction or issuance must be fully aware of their legal responsibilities under the MAR concerning the handling and disclosure of inside information.

Additionally, the FCA has reminded issuers and their advisers of Rule 2.1(a) of the Takeover Code, which states that prior to the announcement of an offer or possible offer:

all persons privy to confidential information, and particularly price-sensitive information, concerning the offer or possible offer must treat that information as secret and may only pass it to another person if it is necessary to do so and if that person is made aware of the need for secrecy.

All relevant persons must conduct themselves so as to minimize the chances of leaking information.[5]

### ***Potential Consequences***

The FCA warns that any individual who discloses inside information, whether intentionally or not, may face allegations of market abuse, which could result in unlimited fines, injunctions or bans from regulated activities.

### ***Fines***

In September 2022, the FCA fined Sir Christopher Gent, former nonexecutive chairman of ConvaTec Group PLC, £80,000 (\$105,500) for unlawfully disclosing inside information.

According to the FCA, Sir Christopher shared confidential details about the company's impending revision of financial guidance and the anticipated retirement of its CEO with two major shareholders before a formal announcement.

The FCA determined that this disclosure was not made in the normal exercise of his employment duties, thus breaching Article 10 of the MAR.

In late 2024, the FCA fined András Sebők, former chief supply chain officer at Wizz Air Holdings PLC, £123,500 for illegally trading company shares during closed periods and

failing to disclose those trades.[6]

According to the FCA, Sebők made 115 trades worth over £4 million between April 2019 and November 2022 without informing Wizz Air or the FCA within the required three-day window. Although this case primarily involved breaches of Article 19(a) of the MAR, it underscores the FCA's commitment to enforcing regulations against insider dealing.

These actions reflect the FCA's ongoing efforts to uphold market integrity by penalizing unlawful disclosure and insider dealing activities. They also represent the cases brought after an apparent hiatus in FCA activities in this area since 2019.

Much criticized, it is fair to say that criminal cases require meticulous and detailed preparation. The burden of proof is beyond a reasonable doubt, while the burden of proof in civil matters rests on the balance of probabilities. Whatever the reason, however, the FCA is showing that it is determined to root out and penalize insider dealing and other forms of market abuse.

### **Next Steps**

The FCA has identified gaps in actions taken by issuers and their advisers to ensure inside information is handled appropriately, and that measures are in place to prevent leaks.

The FCA's expectation is that relevant holders of inside information underpin written policies and procedures, including those concerning social media, with a culture and practices within the organization that actively discourage leaks. Issuers should consider whether their policies and procedures for handling inside information, also including those concerning social media, are adequate to address the risks identified in PMB 54. They should also update them as necessary.

Policies and procedures for identifying and handling inside information can have limited effectiveness if they are not accompanied by a culture and practices that proactively look to prevent leaks, so it is important these are considered and implemented robustly.

What this means for firms, both issuers and intermediaries, is the necessity of focusing on not just the existence of policies and procedures, but their embedding into the firm's everyday culture.

This will entail making sure those policies and procedures are up to date, including on red flag jurisdictions, relevant enforcement cases and global approaches, and checking that staff are receiving sufficient and timely training and updates. These should not be on a strict annual rotation to the exclusion of interim updates and legislative developments.

Organizations should ensure that management information includes market abuse risks and metrics, and check that market abuse is an embedded culture item and not simply a stand-alone item to be considered after the fact.

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*Juliette Mills is an associate and Alix Prentice is a partner at Cadwalader Wickersham & Taft LLP.*

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[1] <https://www.fca.org.uk/publications/newsletters/primary-market-bulletin-54>.

[2] <https://www.handbook.fca.org.uk/handbook/COCON/2/1.html>.

[3] <https://www.legislation.gov.uk/eur/2014/596/article/10>.

[4] <https://www.legislation.gov.uk/eur/2014/596/article/14>.

[5] <https://www.thetakeoverpanel.org.uk/wp-content/uploads/2008/11/code%20before%20161114.pdf>.

[6] <https://www.fca.org.uk/publication/final-notice/andras-sebok-2024.pdf>.