

UK Financial Regulation Edition 29, published December 2021

Chapter 3 End of Chapter Questions – text has been amended to read:

1. What is market abuse?

Answer Reference: Section 1.1

2. How does the FCA provide guidance on what constitutes market abuse?

Answer Reference: Section 1.1.1

3. Name two types of behaviour that give rise to the offence of market abuse.

Answer Reference: Section 1.2

4. Insider dealing is an offence under which legislation?

Answer Reference: Section 2.1

5. What is inside information?

Answer Reference: Section 2.1

6. What is the offence of insider dealing?

Answer Reference: Section 2.1

7. What reporting requirements exist for market abuse?

Answer Reference: Section 2.1.5

8. What financial instruments are caught by insider dealing legislation?

Answer Reference: Section 2.4

9. What are the general defences against insider dealing?

Answer Reference: Section 2.5

10. List four forms of market manipulation.

Answer Reference: Section 3.1

11. What are the obligations on a person with managerial responsibility?

Answer Reference: Section 3.3

12. What is the activity of money laundering?

Answer Reference: Section 4.1

13. Name the main sources of rules and regulations governing money laundering.

Answer Reference: Section 4.1

14. Describe the three stages of money laundering.

Answer Reference: Section 4.2

15. What defence can be used for the offences under POCA 2002?

Answer Reference: Section 4.3.2

16. What three types of customer due diligence requirements are set out in the JMLSG Guidance?

Answer Reference: Section 4.4.3

17. What are the responsibilities of the MLRO?

Answer Reference: Section 4.5

18. What is the definition of terrorism under the Terrorism Act 2000?

Answer Reference: Section 4.7

19. What are the main differences between money laundering and terrorist financing activities?

Answer Reference: Section 4.7.1

20. What are the main purposes of the Bribery Act 2010?

Answer Reference: Section 5.1

21. What is the purpose of the Disclosure and Transparency Rules?

Answer Reference: Section 7.1

22. Which UK authority carries out regulation under the EU Takeover Directive?

Answer reference: Section 7.2

23. Under the EU Takeover Directive, what is meant by 'acting in concert'?

Answer reference: Section 7.2

24. What is permitted under Section 793 of the Companies Act 2006?

Answer reference: Section 7.4

25. What is the aim and purpose of EMIR?

Answer Reference: Section 8.2

26. State the six principles of good practice under the Data Protection Act 2018.

Answer Reference: Section 9.1

27. What is the purpose of the capital adequacy requirements?

Answer Reference: Section 10.1

28. What are the aims of the UCITS Directive?

Answer Reference: Section 10.3

Chapter 4 Section 2.1.3 – text has been amended to read:

The categories are:

- An entity required to be authorised or regulated to operate in the financial markets. This includes:
 - a credit institution
 - an investment firm
 - any other authorised or regulated financial institution
 - an insurance company
 - a CIS or the management company of such a scheme
 - a pension fund or the management company of a pension fund
 - a commodity or commodity derivatives dealer, or
 - any other institutional investor.

- Large undertakings – companies whose balance sheet, turnover or own funds meet certain levels. Specifically:
 - For MiFID and equivalent third country business, this means undertakings that meeting any two of the following size requirements on a company basis: a balance sheet total of €20 million; a net turnover of €40 million; or own funds of €2 million.
 - For other (non-MiFID) business, large undertakings are:
 - a company whose called-up share capital or net assets are, or have, at any time in the past two years been, at least £5 million, or the currency equivalent (or any company whose holding companies/subsidiaries meet this test)
 - a company which meets (or of which the holding companies/subsidiaries meet) any two of the following criteria: a balance sheet total of €12.5 million; a net turnover of €25 million; an average of 250 employees during the year
 - a partnership or unincorporated association whose net assets are, or have at any time in the past two years been, at least £5 million, or currency equivalent. In the case of limited partnerships, this should be calculated without deducting any loans owing to the partners
 - a trustee of a trust (other than certain types of pension scheme dealt with in the next bullet point) which has, or has at any time in the past two years had, assets of at least £10 million
 - a trustee of an occupational pension scheme or a small self-administered scheme, or the trustee/operator of a personal pension or stakeholder pension scheme, where the scheme has, or has at any time in the past two years had, at least 50 members, and assets under management of at least £10 million.

The list of per se professional clients also includes:

- national or regional governments, certain public bodies, central banks, international/supranational institutions and other similar institutions, and
- institutional investors whose main business is investment in financial instruments.

Chapter 4 Section 2.3.4 – text has been amended to read:

Firms holding client money or investments for retail clients, professional clients and ECPs (as well as potential retail clients, professional clients and ECPs) subject to the UK MiFID custody/client money rules (as applicable), also have to provide the following information, as appropriate:

1. that the investments/money may be held by a third party on the firm's behalf
2. what the firm's responsibility is for any acts and/or omissions of that third party
3. what will happen if the third party were to become insolvent
4. if the investments cannot be separately designated in the country in which they are held by a third party, what this means for, and what the risks are to the client
5. that the investments are subject to the laws of a non-UK jurisdiction and what this means for their clients' rights over them
6. a summary of the steps the firm has taken to protect the client's money and/or investments, including details of any relevant investor compensation or deposit guarantee schemes available to them
7. if the money or investments are subject to any security interest, lien or right of set-off, full details of this fact and the terms of it, and
8. full and clear information, in a durable medium, in good time before entering into securities detailing clearly what the firm's obligations are with regard to those investments and what the risks may be.

Chapter 4 Section 2.4 – text has been amended to read:

Firms must provide retail clients with information on the costs and charges to which they will be subject in respect of both investment services and/or financial instruments, including ancillary services. (MiFID II applied these requirements to ECPs and professional clients, however this was removed by HM Treasury from July 2021 as part of the UK's MiFID Quick fix package). Relevant costs and charges include:

- the total price to be paid, including all related fees, costs, charges and expenses and any taxes payable via the firm
- if these cannot be indicated at the time, the basis on which they will be calculated so that the client can verify and clarify them later
- the costs charged by the firm, which must be itemised separately in every case
- if the above are to be paid in foreign currency, what currency is involved and the conversion rates and costs applicable
- if other costs and taxes which are not paid or imposed by the firm could be applicable, the fact that further costs, charges, or taxes may be payable must be stated, and if is so
- how the above items are to be paid and/or levied, and
- information about compensation schemes.

Multiple Choice Questions – it has been amended to read

8. Which of the following is a specified investment under the Regulated Activities Order?

- A. A cash deposit held with a bank
- B. Trade bills, cheques and other bills of exchange
- C. Commodity futures for commercial purposes
- D. Open-ended investment company (OEIC) shares

24. Which tier imposed by the Information Commissioner's Office (ICO) is correct for the higher maximum penalty?

- A. £3.8 million or 4%
- B. £5.2 million or 2%
- C. £8.7 million or 2%
- D. £17.5 million or 4%

Multiple Choice Answer – Number 24 has been amended to read:

Q24. Answer: D Ref: Chapter 3, Section 9.1.1

There are two tiers of penalty that the ICO can impose – the higher maximum penalty and the standard maximum:

- The higher maximum amount is £17.5 million or 4% of the total annual worldwide turnover in the preceding financial year, whichever is higher. In practice, the higher maximum amount can apply to any failure to comply with any of the data protection principles, any rights an individual may have or in relation to any transfers of data to third countries.
- The standard maximum may be applied where there are infringements of other provisions, such as administrative requirements of the legislation. The standard maximum is £8.7 million or 2% of the total annual worldwide turnover in the preceding year, whichever is higher.