

## Consultation response

### **Retrospective application of regulatory rules: FCA Call for Examples (August 2014)**

29 October 2014

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The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the FCA Call for Examples regarding the retrospective application of regulatory rules. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia. AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

AFME welcomes this call for examples and we do think this was a useful exercise. We encourage such FCA initiatives to engage effectively with the market in an open and transparent manner, and would be interested in seeing the FCA's summary of the industry feedback received, as well as an indication of any lessons learnt, or potential changes to current regulatory practices, as a result of the feedback received.

We are grateful for the extension of time in which to prepare our response. We have, however, in the interim had the opportunity of reading the response submitted by the City of London Law Society Regulatory Law Committee. We agree with the response, believe the range of examples provided to be representative of the issue, and do not seek to add to them.

Without limitation to the generality of the foregoing, our members feel particularly strongly about the changes in regulation of the use of dealing commission to pay for research, corporate access and other services. Given the significant impact on our members and their clients, it is essential that firms have a clear understanding of regulatory expectations both nationally and internationally. This also touches upon the issue of the FCA setting its regulatory



expectations against forthcoming EU legislation, as outlined in the example on the Market Abuse Directive (which is still in Level 2 consultation) quoted by the City of London Law Society.

Where enforcement action against individuals (who may as a result lose their livelihood) is contemplated, it is a basic tenet that the law or regulation alleged to have been breached must be clear.

We would be happy to continue to engage with the FCA in ongoing dialogue on this and, in due course, may raise with you any further issues on the subject that AFME members bring to our attention.

Yours sincerely

Will Dennis

Managing Director, Compliance

[Will.dennis@afme.eu](mailto:Will.dennis@afme.eu)