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Financial crime FSA's 2009 expectations

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Looking at ...

1. FSA's approach to financial crime
2. Focus on individuals
3. Targetting insider dealing
4. Addressing fraud/bribery
5. AML issues
6. When FSA acts ... and when it doesn't

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1. FSA's approach to financial crime

- ▶ A key risk to FSA
 - Orderly markets
 - Treating customers fairly
 - Strain on compensation scheme
 - May lie outside perimeter
- ▶ A key risk to firms
- ▶ Exacerbated by financial crisis
- ▶ Distracted by response to turmoil

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2. FSA's focus on individuals

- ▶ What is your personal responsibility?
- ▶ When does FSA act?
- ▶ What are the three commandments?

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Discharging your personal responsibility

- ▶ The “good” manager
 - Investigates and takes responsibility for action
- ▶ The “good” non executive
 - Understands & challenges

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When does FSA act?

- ▶ Actual dishonesty
- ▶ Poor discharge of governance
- ▶ And coming into focus ... the non-executive director

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And the three commandments

For all approved persons (bar CF30)

- ▶ **Proper control** – have you mapped the business & identified the crime risks?
 - How did you manage them?
 - How did you manage subordinates?
- ▶ **Skilful management** – do you fully grasp it?
 - What MI do you get on the risks?
 - What do you do with it?
- ▶ **Business is compliant** – how is it monitored?

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3. Targetting insider dealing

- ▶ Market abuse
 - Insider dealing
 - Equities
 - Other asset classes
 - Manipulative transactions
 - False rumours

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FSA is acting ...

- ▶ Increased surveillance
 - Market Monitoring (SABRE II)
 - Telephone Interviews
- ▶ Suspicious transaction reporting
- ▶ Telephone taping
- ▶ Criminal proceedings for insider dealing

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And the protection is ...

- ▶ Procedures
- ▶ Training
- ▶ Revisit those Chinese walls
- ▶ Consider other systemic protection

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4. Addressing fraud/bribery

- ▶ The fraud risks
- ▶ What FSA expects

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What risks does a firm face?

- ▶ Internal fraud
 - Dishonest gain
 - Dishonest concealment
- ▶ External fraud
 - Customer
 - Opportunistic
 - Used for organised crime
- ▶ Bribery & corruption
- ▶ Experienced & potential

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What are the risks to a firm?

- ▶ No overall policy
- ▶ Fail to identify threats comprehensively
- ▶ Based on historical experience only
- ▶ Unable to recognise fraud – hidden?
- ▶ No clear accountabilities
- ▶ Low staff awareness

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What FSA expects ...

- | | |
|--|--|
| <ul style="list-style-type: none"> ▶ <u>Holistic approach</u> <ul style="list-style-type: none"> – Firm wide – Issues identified – Recruitment – Training – Tested – Data security ▶ <u>Clear policy</u> <ul style="list-style-type: none"> – How determined? – Who owns it? – How updated? | <ul style="list-style-type: none"> ▶ <u>Procedures</u> <ul style="list-style-type: none"> – Walkthrough – Identification and enhancement of controls ▶ <u>Staff awareness</u> <ul style="list-style-type: none"> – Training – Accessibility – Refreshers ▶ <u>Inclusion of control functions</u> ▶ <u>Management commitment</u> |
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5. AML issues

- ▶ Review & identify risks
- ▶ The need for ...
 - Identification at take-on
 - Proper evidence
 - Keeping records
 - Alertness post-take-on
- ▶ Constant transaction monitoring
- ▶ Process review

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6. When FSA acts – or doesn't

- ▶ FSA's criteria
- ▶ How to try to satisfy FSA

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The FSA criteria for action

- ▶ Serious breaches
 - Investor detriment
 - Systems & controls
 - Management attitude
 - The risk of the “theme”
- ▶ What is at risk
 - Formal discipline
 - Remedial action
 - Management grief
 - Risk of individual action

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Managing the first hour

- ▶ Project team
 - Involve legal
- ▶ Three rules
 - One point of contact
 - Stop writing
 - Realistic deadlines & promises
- ▶ The three “its”
 - What is it?
 - Stop it!
 - Right it!

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The scoping exercise

1. Scope it
2. Cap it
3. Look at other areas
4. Remedy it
5. Confirm won't repeat
6. Then tell FSA

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Notifying the FSA

- ▶ Regulatory requirements
 - Principle 11
 - APER 4
 - SUP
- ▶ Timing expectation
- ▶ Content expectation
- ▶ What not to do

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Telling the bad news

How to do it

- ▶ You spot
- ▶ You scope
- ▶ You assure three ways
 - Capped
 - Customers ok
 - Future
- ▶ You give reassurance
- ▶ No s166, no ENF

How not to do it

- ▶ Outsider spots
- ▶ You tell FSA later
- ▶ You don't listen
- ▶ You argue
- ▶ You pick quarrel
- ▶ You miss pointers
- ▶ You get s166
- ▶ You go to ENF

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Keeping the matter from Enforcement

Within your control

- ▶ Quality of response
- ▶ Management attitude

Outside your control

- ▶ Investor loss
- ▶ Seriousness of concerns/theme