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## Financial crime FSA's 2009 expectations

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