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To whom it may concern,

MAR Review Report

We welcome the opportunity to respond to your consultation on the provisions of the Market Abuse Regulation (MAR).

The Quoted Companies Alliance *Legal Expert Group, Primary Markets Expert Group and Secondary Markets Expert Group* have examined the proposals and advised on this response from the viewpoint of small and mid-size quoted companies. A list of Expert Group members can be found in Appendix A.

Overall, we welcome ESMA's work to review the provisions of MAR on behalf of the European Commission. As small and mid-size companies play a vital role in driving economic growth, as well as creating jobs and wealth, it remains crucially important that a proportionate regulatory environment is established without compromising the integrity of the market. Once this is achieved, smaller companies will have the platform they need to develop and expand and thus drive economic growth.

We would highlight that, as a general comment, our members have a few overarching concerns on the provisions of MAR regarding:

- Inconsistencies in relation to the inclusion of the inside information statement on announcements and the need for additional guidance on good practice for issuers on the use of inside information statements.
- The need for additional clarification on the second condition for the legitimate delay of disclosure of inside information, namely that "the public is not misled".
- A lack of clarity over whether disclosure may be legitimately delayed during the period between the clearance request and the dealing, as well as over whether disclosure is required if the dealing request is refused.

- The potential inclusion of a requirement to adopt systems and controls for identifying, handling and disclosing of inside information as this adds to the legislative burden borne by issuers, and in particular, will disproportionately impact smaller quoted companies.

- The addition of further layers of prescriptive legislation such as the notification of the delay of inside information that loses its inside nature following the delay of disclosure, which we deem as unnecessary due to the burden it would place on issuers significantly outweighing any perceived benefit to the market.

- The proposal to elevate the market soundings regime to a mandatory process.

- The proposal to extend the requirement of Article 19(11) to issuers and to persons closely associated with PDMRs as it will place a considerable additional burden on the SME growth company community.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours sincerely,

Tim Ward
Chief Executive

Q1 Do you consider necessary to extend the scope of MAR to spot FX contracts? Please explain the reasons why the scope should or should not be extended, and whether the same goals could be achieved by changing any other piece of the EU regulatory framework.

We have no comments.

Q2 Do you agree with ESMA's preliminary view about the structural changes that would be necessary to apply MAR to spot FX contracts? Please elaborate and indicate if you would consider necessary introducing additional regulatory changes.

We have no comments.

Q3 Do you agree with this analysis? Do you think that the difference between the MAR and BMR definitions raises any market abuse risks and if so what changes might be necessary?

We have no comments.

Q4 Do you agree that the Article 30 of MAR "Administrative sanctions and other administrative measures" should also make reference to administrators of benchmarks and supervised contributors?

We have no comments.

Q5 Do you agree that the Article 23 of MAR "Powers of competent authorities" point (g) should also make reference to administrators of benchmarks and supervised contributors? Do you think that is there any other provision in Article 23 that should be amended to tackle (attempted) manipulation of benchmarks?

We have no comments.

Q6 Do you agree that Article 30 of MAR points (e), (f) and (g) should also make reference to submitters within supervised contributors and assessors within administrators of commodity benchmarks?

We have no comments.

Q7 Do you agree that there is a need to modify the reporting mechanism under Article 5(3) of MAR? Please justify your position.

We have no comments.

Q8 If you agree that the reporting mechanism should be modified, do you agree that Option 3 as described is the best way forward? Please justify your position and if you disagree please suggest alternative.

We have no comments.

Q9 Do you agree to remove the obligation for issuers to report under Article 5(3) of MAR information specified in Article 25(1) and (2) of MiFIR? If not, please explain.

We have no comments.

Q10 Do you agree with the list of fields to be reported by the issuers to the NCA? If not, please elaborate

We have no comments.

Q11 Do you agree with ESMA's preliminary view?

We have no comments.

Q12 Would you find more useful other aggregated data related to the BBP and if so what aggregated data? Please elaborate.

We have no comments.

Q13 Have market participants experienced any difficulties with identifying what information is inside information and the moment in which information becomes inside information under the current MAR definition?

As a general observation, whilst the determination of what constitutes inside information relies heavily on judgement calls being made by issuers and advisers, our members were of the view that the adviser community in the UK is well versed in making those judgment calls and that, with the benefit of judicial commentary over recent years, the market can be regarded as having a good understanding of what constitutes inside information.

Whilst we do not believe that any amendment is required to the Level 1 legislation, members of the QCA have observed some inconsistencies in regard to the inclusion of the "inside information statement" on announcements. Article 2 of Implementing Regulation (EU) 2016/1055 of 29 June 2016 requires announcements to include a statement that they contain inside information where such is the case. However, some issuers appear to be following a policy of incorporating inside information statements in announcements as a matter of course.

For example, preliminary results announcements sometimes incorporate inside information statements notwithstanding the fact that no new developments appear to have occurred and the results otherwise appear to be in line with market expectations. Conversely potentially significant price movements can occur following the release of announcements which do not incorporate inside information statements.

The incorrect designation of non-inside information as inside information has potentially adverse consequences for issuers and for the market place. For instance, where previously announced or otherwise insignificant information is wrongly labelled as price sensitive, the issuer will also need to give consideration to matters such as the application of the insider list requirements, the operation of the dealing code to dealings by PDMRs and the provisions relating to wall-crossing prior to the release of the announcement.

Given the significance of the inclusion or non-inclusion of inside information statements, we recommend that ESMA or one or more NCAs should publish guidance on good practice for issuers on the use of inside information statements.

Q14 Do market participants consider that the definition of inside information is sufficient for combatting market abuse?

In practice, we believe that the definition as applied and used in the markets with which we are familiar (being primarily AIM, but also the Main Market of the London Stock Exchange), is sufficient to combat market

abuse. However, we do believe that there is a structural problem with the conflating of the concepts of "significant effect on price" and the so-called "reasonable investor" test. We have outlined this below:

We would like thought to be given to the revision or clarification of a specific element of the definition of "inside information" – namely the requirement that the information must be such that, if known, it would have a "significant effect on the prices of [securities]".

The meaning of this element is dealt with in Article 7(4) of MAR, which states as follows:

"information, which if it were made public, would be likely to have a significant effect on the prices of [list of financial instruments subject to MAR] shall mean information which a reasonable investor would be likely to use as part of the basis of his or her investment decisions" (Article 7(4)).

Recital 18 of MAR states that legal certainty for market participants should be enhanced through a closer definition of two of the elements essential to the definition of inside information, namely (i) the precise nature of that information and (ii) the significance of its potential effect on the prices of [the] financial instruments.(our emphasis).

Our concern is that the resulting formulation for determining what constitutes a significant effect on price conflates two related but also very distinct concepts, namely:

(i) the so called, "significant effect on price" test; and
(ii) the "the reasonable investor" test.

The "significant effect on price" test which originated in the former Market Abuse Directive (EC 2003/6) (MAD) and the related Implementing Directive (EC 2004/72EC) (the Implementing Directive).

In MAD (Article 1(1)), "inside information" was defined as "information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of [financial instruments subject to MAD] or to one or more [financial instruments subject to MAD] and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments".

In the Implementing Directive it was stated, that for the purposes of MAD, *"information which, if it were made public, would be likely to have a significant effect is information a reasonable investor would be likely to use as part of the basis of his investment decision"*. We believe that notwithstanding this the "significant effect on price" test remained paramount and to an extent it could be regarded as co-existing with the reasonable investor test rather than forming one and the same test.

This "reasonable investor" test which previously spanned MAD and the Implementing Directive was carried forward into MAR as Level 1 text.

The conflation of the two elements is of more than academic interest since it leaves open the question as to whether, in determining what is or is not "inside information" for the purposes or MAR, there is one test or two tests. We illustrate this below.

Single test approach

A possible interpretation of the provisions is that information which a reasonable investor would use as a basis for investment decisions is identical to and limited to information which is likely to have a significant effect on price. This would be a natural reading of MAR without any context. However it effectively renders meaningless the separate concept of a significant effect on price. The sole test becomes whether the information is information which a reasonable investor would use as a basis for investment decisions. We think the linkage needs to be restored so that this key concept is retained.

We suggest that this would require amendment of the Level 1 text. For example wording could be included such as: *"information, which if it were made public, would be likely to have a significant effect on the prices of [list of financial instruments subject to MAR] and therefore is information which a reasonable investor would be likely to use as part of the basis of his or her investment decisions"*

Two-test approach

If the above is not what is intended then is there, by implication, a two-part test so that to satisfy the definition the information must be both:

(i) information which would have a significant effect on the price of securities; and
(ii) information which a reasonable investor would use it as the basis for investment decisions

If this is the case, then what the EU is actually saying is that there could be information which either (i) notwithstanding that it is likely to have a significant effect on price would not be information which a reasonable investor would use as the basis for investment decisions or (ii) notwithstanding that it would not have a significant effect on the price is information which a reasonable investor would nevertheless use as the basis for investment decisions?

If this is the case, then, again, greater clarity in revised Level 1 text would be welcomed.

Again, we suggest that this would have to be done by amendment of the Level 1 text. For example wording could be included such as: *"information, which if it were made public : (A) would be likely to have a significant effect on the prices of [list of financial instruments subject to MAR] and (B) is information which a reasonable investor would be likely to use as part of the basis of his or her investment decisions".*

Given its overriding importance for MAR, we would strongly recommend that the Level 1 text is amended to clarify what the EU intends the meaning of "inside information" to be for these purposes.

In our view the “significant effect on price” test should remain paramount.

Q15 In particular, have market participants identified information that they would consider as inside information, but which is not covered by the current definition of inside information?

No – we believe that the definition is sufficiently comprehensive to cover all information which should be regarded as inside information. If anything, the challenge is to be clear as to which information should not be categorised. However, we do not have any suggestions to progress this discussion at this time.

Q16 Have market participants identified inside information on commodity derivatives which is not included in the current definition of Article 7(1)(b) of MAR?

We have no comments.

Q17 What is an appropriate balance between the scope of inside information relating to commodity derivatives and allowing commodity producers to undertake hedging transactions on the basis of that information, to enable them to carry out their commercial activities and to support the effective functioning of the market?

We have no comments.

Q18 As of today, does the current definition of Article 7(1)(b) of MAR allow commodity producers to hedge their commercial activities? In this respect, please provide information on hedging difficulties encountered.

We have no comments.

Q19 Please provide your views on whether the general definition of inside information of Article 7(1)(a) of MAR could be used for commodity derivatives. In such case, would safeguards enabling commodity producers to undertake hedging transactions based on proprietary inside information related to their commercial activities be needed? Which types of safeguards would you envisage?

We have no comments.

Q20 What changes could be made to include other cases of front running?

We have no comments.

Q21 Do you consider that specific conditions should be added in MAR to cover front-running on financial instruments which have an illiquid market?

We have no comments.

Q22 What market abuse and/or conduct risks could arise from pre-hedging behaviours and what systems and controls do firms have in place to address those risks? What measures could be used in MAR or other legislation to address those risks?

We have no comments.

Q23 What benefits do pre-hedging behaviours provide to firms, clients and to the functioning of the market?

We have no comments.

Q24 What financial instruments are subject to pre-hedging behaviours and why?

We have no comments.

Q25 Please provide your views on the functioning of the conditions to delay disclosure of inside information and on whether they enable issuers to delay disclosure of inside information where necessary.

We believe that, subject to the comment below, the three conditions to the delay of disclosure of inside information function adequately and that, with the benefit of the guidance issues by ESMA, market practices have evolved and are sufficient to enable issuers to legitimately delay the disclosure of inside information where appropriate.

Our view above is subject to the comment raised by some of our membership that the market would benefit from some clarification of the second condition for the legitimate delay of disclosure of inside information, namely that "the public is not misled". This is currently addressed at ESMA Guidelines level. However, we consider it to be sufficiently important to elevate to the Level 1 legislation.

Q26 Please provide relevant examples of difficulties encountered in the assessment of the conditions for the delay or in the application of the procedure under Article 17(4) of MAR.

We would like to draw the attention of ESMA to one particular scenario which we do not believe is adequately addressed by the existing MAR delayed disclosure regimes and which we believe requires a specific carve out.

In the UK, quoted companies customarily adopt dealing codes which, in addition to prohibiting dealings during MAR closed periods, require the advance notification by PDMRs to the designated clearance officer of proposed transactions by securities outside closed periods. Upon being notified, the designated clearance officer will not permit the dealing to take place where inside information is in existence regardless of whether the PDMR is aware of that information. The purpose of the clearance procedure, which has been a longstanding continuing obligation of quoted companies (a model dealing code was incorporated in the FCA's Listing Rules until the implementation of MAR), is to avoid PDMRs putting themselves under suspicion of dealing whole in possession of inside information.

One consequence of the application of dealing codes is that, at the point of notification to a member of its board, the issuer may be considered to have come into possession of inside information (being the fact that a PDMR or major shareholder is proposing to deal). If this does amount to inside information – which will be a matter of judgement – the issuer would be under an obligation to disclose it to the market without delay.

In practice, we do not believe that the disclosure of a proposed dealing made by a PDMR to a designated officer under and issuer's dealing code should give rise to a requirement for the issuer to make an announcement (although we accept that, in those circumstances, dealings by the issuer would be prohibited by reason of it being an insider). There is an accepted protocol and timetable for disclosure of dealings by PDMRs which we believe is "fit for purpose" (the clearance to deal (if given) is generally conditioned on the dealing taking place within a time-limited period (typically two days) and the dealing itself, once executed, is required to be reported to the NCA and announced to the market).

However, it is not immediately clear whether the delay of disclosure of the receipt of the request to deal is catered for by the delayed disclosure regime (e.g. it could not necessarily be argued that the issuer would be prejudiced by the immediate announcement of the proposed dealing).

We would welcome clarification that disclosure may be legitimately delayed during the period between the clearance request and the dealing and that, if the dealing request is refused, no disclosure is required in any event.

Given the longstanding nature of the notification and clearance regime we would also suggest that this is an accepted market practice within the meaning of Article 13 of MAR and should be explicitly recognised as such.

Q27 Please provide your view on the inclusion of a requirement in MAR for issuers to have systems and controls for identifying, handling, and disclosing inside information. What would the impact be of introducing a systems and controls requirement for issuers?

We believe that the sanctions for non-compliance with MAR are more than sufficient to encourage issuers to take measures to comply with the legislation and NCAs are well placed to encourage issuers to take reasonable steps to facilitate compliance. By way of example, in the UK the FCA included a reminder of the need for market participants to have compliance systems in place in its "Market Watch" newsletter in December 2018.

This said, the QCA would not be opposed to a generalised statement reinforcing the need for issuers to adopt reasonable and proportionate compliance measures, having regard to the nature, size and resources of the issuer. The QCA is, however, opposed to the inclusion of a requirement to adopt specific processes and machinery. To do so would be to further add to the considerable legislative burden borne by quoted companies which we believe is already presenting a disincentive for SME growth companies to seek funds on the public markets.

Q28 Please provide examples of cases in which the identification of when an information became "inside information" was problematic.

Please see response to Q13.

Q29 Please provide your views on the notification to NCAs of the delay of disclosure of inside information, in those cases in which the relevant information loses its inside nature following the decision to delay the disclosure.

We recognise that the inclusion of an additional requirement to notify an NCA of the delay of disclosure of inside information in those cases in which the relevant information loses its inside nature following the decision to delay the disclosure may have some value for NCAs. However, we believe that the additional burden that it would impose on issuers considerably outweighs any perceived benefit to the market as a whole.

In addition to adding a further layer of prescriptive legislation on the market, compliance with such a requirement would be almost impossible to police effectively and would be unlikely to deliver any meaningful increase in the detection of incidences of market abuse.

Q30 Please provide your views on whether Article 17(5) of MAR has to be made more explicit to include the case of a listed issuer, which is not a credit or financial institution, but which is controlling, directly or indirectly, a listed or non-listed credit or financial institution.

We have no comments.

Q31 Please provide relevant examples of difficulties encountered in the assessment of the conditions for the delay or in the application of Article 17(5) of MAR.

We have no comments.

Q32 Please indicate whether you have found difficulties in the assessment of the obligation to disclose a piece of inside information under Article 17 MAR when analysed together with other obligations arising from CRD, CRR or BRRD. Please provide specific examples.

We have no comments.

Q33 Do you agree with the proposed amendments to Article 11 of MAR?

From its inception, MAR has offered the market soundings regime as a "safe harbour" which provides a defence to any claim that the relevant information was improperly disclosed to a third party. In this respect the provisions are similar to those for share buybacks set out in Article 5 of MAR. We consider that any proposal to elevate the market soundings regime to a mandatory process is inconsistent with that approach and not within the spirit or intent of the legislation. Our view is reinforced by absence of any presumption of improper disclosure if the market soundings regime is not followed.

The introduction of a mandatory process would not only add to the overall burden of prescriptive legislation for quoted companies but would also serve to stifle the ability for the market to evolve to meet the needs of market participants in a manner which is consistent with MAR.

The ESMA prescribed script for market soundings presents a baseline position for communications but has proved not to be fit for purpose in a number of respects. In particular, initial market sounding communications are rarely conducted by telephone. Instead they are often split between e-mails, telephone calls and face to face meetings, with the invitation for the proposed recipient to consent to become an insider being issued by e-mail and the actual communication of inside information being made in real time on a recorded line. We think it would be inappropriate and contrary to accepted market practice to require all market participants to follow the same prescribed process when there are, in fact, a number of legitimate and accepted routes that can be followed to enable the proper disclosure of inside information to third parties using the same prescribed script.

Q34 Do you think that some limitation to the definition of market sounding should be introduced (e.g. excluding certain categories of transactions) or that additional clarification on the scope of the definition of market sounding should be provided?

Yes – we support the proposal set forth in EC proposal dated 24 May 2018 for a regulation of the European Parliament and Council amending MAR and the Prospectus Regulation (the "SME Regulation") to exempt private placements of bonds with institutional investors from the market soundings regime when an alternative all crossing procedure is in place.

Q35 What are in your view the stages of the interaction between DMPs and potential investors, from the initial contact to the execution of the transaction, that should be covered by the definition of market soundings?

We do not believe that the point of first contact between the DMP and the recipient (or their nominated gate-keeper) should be covered by the definition of market soundings. Rather, we believe that this should be upon the receipt of inside information.

Q36 Do you think that the reference to "prior to the announcement of a transaction" in the definition of market sounding is appropriate or whether it should be amended to cover also those communications of information not followed by any specific announcement?

The market sounding regime is one which is tailored to inside information which relates to proposed transactions which, in due course, would require the making of an announcement.

Generally cleansing is made by private communication once the parties are satisfied that the information has gone stale. In circumstances where the parties are not satisfied the information has gone stale cleansing would typically be dealt with by a public announcement.

To address the last point, we recommend that consideration be given to amending the wording of the definition so as to read "….a market sounding comprises the communication of information relating to a transaction which has not at the time of the communication been announced but which, if such transaction was concluded, would be required to be announced, in order to gauge the interest of potential investors in a possible transaction and the conditions relating to it such as its potential size or pricing …."

Q37 Can you provide information on situations where the market soundings regime has proven to be of difficult application by DMPs or persons receiving the market sounding? Could you please elaborate?

Please see response to Q33 regarding the fitness for purpose of the prescribed scripts.

Q38 Can you provide your views on how to simplify or improve the market sounding procedure and requirements while ensuring an adequate level of audit trail of the conveyed information (in relation to both the DMPs and the persons receiving the market sounding)?

Please see response to Q33 regarding the process typically adopted by the market which we understand to be efficient and readily capable of audit. Subject to this comment, we consider that changes to simplify or improve the market sounding procedure and requirements are unnecessary as market processes have been developed to help with what information is recorded and maintained.

Q39 Do you agree with ESMA's preliminary view on the usefulness of insider list? If not, please elaborate.

We are broadly in agreement with the statements made relating to the utility of insider lists to NCAs where market abuse is suspected and the benefit to issuers of insider lists as an information management tool. However, for SME growth companies, we support the relaxation of requirements proposed by the SME regulation which, if implemented in its current form, will replace the current "delivery on request" regime for SME Growth Companies with a simple requirement to maintain a list of permanent insiders (without relaxing the requirements for advisers to maintain insider lists).

Q40 Do you consider that the insider list regime should be amended to make it more effective? Please elaborate.

Please see response to Q39.

Q41 What changes and what systems and controls would issuers need to put in place in order to be able to provide NCAs, at their request, the insider list with the individuals who had actually accessed the inside information within a short time period?

Note that, notwithstanding the proposed relaxation of insider list requirements for SME Growth Companies which is contemplated by the SME Regulation, we believe that many SME issuers will continue their current practice of maintaining project lists which will typically include a broader class of persons than permanent insiders. This would be a matter of good practice and one to be encouraged. However, we do not believe that it presents a justification for reversing the proposed relaxation of requirements for SME Growth Companies.

Q42 What are your views about expanding the scope of Article 18(1) of MAR (i.e. drawing up and maintain the insider list) to include any person performing tasks through which they have access to inside information, irrespective of the fact that they act on behalf or on account of the issuer? Please identify any other cases that you consider appropriate.

We have no comments.

Q43 Do you consider useful maintaining the permanent insider section? If yes, please elaborate on your reasons for using the permanent insider section and who should be included in that section in your opinion.

Please see response to Q39-42.

Q44 Do you agree with ESMA's preliminary view?

Yes – we agree with ESMA's preliminary view.

Q45 Do you have any other suggestion on the insider lists that would support more efficiently their objectives while reducing the administrative work they entail? If yes, please elaborate how those changes could contribute to that purpose.

We have no comments.

Q46 Does the minimum reporting threshold have to be increased from Euro 5,000? If so, what threshold would ensure an appropriate balance between transparency to the market, preventing market abuse and the reporting burden on issuers, PDMRs, and closely associated persons?

The AIM Rules and, for Main Market companies, the DTRs have long required the disclosure of dealings in shares by directors of quoted companies. The current regime is not considered overly onerous in relation to prior processes.

We welcome the amendments to post-dealing notification timescales proposed by the SME Regulation.

We also support the maintenance of a threshold dealing value without limiting the right for PDMRs to submit dealing notifications that fall below that threshold (this is currently permitted by the FCA as a matter of administrative convenience). We would encourage ESMA to give consideration to a higher threshold than Euro 5,000 although we acknowledge this is ultimately a matter for the NCAs.

Q47 Should NCAs still have the option to keep a higher threshold? In that case, should the optional threshold be higher than Euro 20,000? If so, please describe the criteria to be used to set the higher optional threshold (by way of example, the liquidity of the financial instrument, or the average compensation received by the managers).

We do not see a justification for an optional threshold higher than Euro 20,000.

Q48 Did you identify alternative criteria on which the reporting threshold could be based? Please explain why.

We believe that a designated value threshold is preferable to one which floats by reference to other criteria. The latter could be difficult to comply with and require additional resource to be applied in monitoring relevant criteria.

Q49 On the application of this provision for EAMPs: have issues or difficulties been experienced?

We have no comments.

Q50 Did you identify alternative criteria on which the subsequent notifications could be based? Please explain why.

We have no comments.

Q51 Do you consider that the 20% threshold included in Article 19(1a)(a) and (b) is appropriate? If not, please explain the reason why and provide examples in which the 20% threshold is not effective.

We have no comments.

Q52 Have you identified any possible alternative system to set the threshold in relation to managers' transactions where the issuer's shares or debt instruments form part of a collective investment undertaking or provide exposure to a portfolio of assets?

We have no comments.

Q53 Did you identify elements of Article 19(11) of MAR which in your view could be amended? If yes, why? Have you identified alternatives to the closed period?

No – we do not consider that amendment is required at Level 1. However, we would observe that, as a matter of market practice, it is usual for dealing codes in the UK to provide for a closed period of two months preceding the preliminary announcement of an issuer's year end results.

We appreciate the clarification by ESMA that it is the announcement of an issuer's final results that ends the year-end close period provided that all relevant information is contained in that announcement. This continues to be the practice in the UK as it was prior to implementation of MAR.

Q54 Market participants are requested to indicate if the current framework to identify the closed period is working well or if clarifications are sought.

We believe that the current framework, with the benefit of the ESMA clarification referred to in the response to Q53 above, is fit for purpose.

Q55 Please provide your views on extending the requirement of Article 19(11) to (i) issuers, and to (ii) persons closely associated with PDMRs. Please indicate which would be the impact on issuers and persona closely associated with PDMRs, including any benefits and downsides.

We do not support the extension of the requirement of Article 19(11) to issuers or to persons closely associated (PCA) with PDMRs.

In the case of issuers, where the dealing is with a PDMR the actions of the PDMR are within the ambit of Article 19(11) in any event and, where an issuer is an insider, it falls within the general prohibition of insider dealing.

Furthermore, PCA's are subject to general prohibition on dealing while in possession of inside information and to the notification of dealings requirements.

The additional burden on the SME growth company community of having to police PCA dealings during closed periods (particularly given the ambit of the MAR definition of PCAs) would be disproportionate relative to any perceived benefits of bringing PCAs into the closed period regime.

Q56 Please provide your views on the extension of the immediate sale provided by Article 19(12)(a) to financial instruments other than shares. Please explain which financial instruments should be included and why.

The current relaxation in Article 19(12) is inconsistent with the provisions of Article 19(11) and we see no reason why it should not apply to the same classes of security as are covered by that Article.

Q57 Please provide your views on whether, in addition to the criteria in Article 19(12) (a) and (b), other criteria resulting in further cases of exemption from the closed period obligation could be considered.

We are supportive of the extension of the exemption to cases where at the time of entering into a contract relating to the acquisition of securities it was not reasonably foreseeable that the window for such acquisition would coincide with a closed period provided that the person exercising the right to acquire securities is not in possession of inside information at the relevant time.

Q58 Do you consider that CIUs admitted to trading or trading on a trading venue should be differentiated with respect to other issuers? Please elaborate your response specifically with respect to PDMR obligations, disclosure of inside information and insider lists. In this regard, please consider whether you could identify any articulation or consistency issues between MAR and the EU or national regulations for the different types of CIUs, with regards for example to transparency requirements under MAR visà-vis market timing or front running issues.

We have no comments.

Q59 Do you agree with ESMA's preliminary view? Please indicate which transactions should be captured by PDMR obligations in the case of management companies of CIUs

We have no comments.

Q60 Do you agree with ESMA's preliminary view? If not, please elaborate.

We have no comments.

Q61 What persons should PDMR obligations apply to depending on the different structures of CIUs and why? In particular, please indicate whether the definition of "relevant persons" would be adequate for CIUs other than UCITs and AIFs.

We have no comments.

Q62 ESMA would like to gather views from stakeholders on whether other entities than the asset management company (e.g. depository) and other entities on which the CIUs has delegated the execution of certain tasks should be captured by the PDMR regime.

We have no comments.

Q63 Do you agree with ESMA's conclusion? If not, please elaborate.

We have no comments.

Q64 Do you agree with ESMA preliminary view? Please elaborate.

We have no comments.

Q65 Do you agree with ESMA's preliminary views? Do you consider that specific obligations are needed for elaborating insider lists related to CIUs admitted to traded or traded on a trading venue?

We have no comments.

Q66 Please provide your views on the abovementioned harmonisation of reporting formats of order book data. In addition, please provide your views on the impact and cost linked to the implementation of new common standards to transmit order book data to NCAs upon request. Please provide your views on the consequences of using XML templates or other types of templates.

We have no comments.

Q67 Please provide your views on the impact and cost linked to the establishment of a regular reporting mechanism of order book data.

We have no comments.

Q68 In particular, please: a) elaborate on the cost differences between a daily reporting system and a daily record keeping and ad-hoc transmission mechanism; b) explain if and how the impact would change by limiting the scope of a regular reporting mechanism of order book data to a subset of financial instruments. In that context, please provide detailed description of the criteria that you would use to define the appropriate scope of financial instruments for the order book reporting.

We have no comments.

Q69 What are your views regarding those proposed amendments to MAR?

We have no comments.

Q70 Are you in favour of amending Article 30(1) second paragraph of MAR so that all NCAs in the EU have the capacity of imposing administrative sanctions? If yes, please elaborate.

We have no comments.

Q71 Please share your views on the elements described above.

We have no comments.

Appendix A

The Quoted Companies Alliance *Legal Expert Group*

Mark Taylor (Chair)	Dorsey and Whitney
Maegen Morrison (Deputy Chair)	Hogan Lovells International LLP
Stephen Hamilton (Deputy Chair)	Mills & Reeve LLP
Danette Antao	Hogan Lovells International LLP
Paul Arathoon	Charles Russell Speechlys LLP
Daniel Bellau	Hamlins LLP
Naomi Bellingham	Practical Law Company Limited
Ross Bryson	Mishcon De Reya
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Jonathan King	Osborne Clarke
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Nicholas McVeigh	Mishcon De Reya
Catherine Moss	Shakespeare Martineau LLP
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Katy Mitchell	W.H. Ireland PLC
Nick Naylor	Allenby Capital
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