

## *Financial Services and Markets*

*Asset managers and EMIR reporting – stay of execution*

In our [client briefing note](#) earlier this week, we reported on the FCA's interpretation of the EMIR reporting obligation in the context of block trades entered into by asset managers.

Since then, the FCA has taken on board the concerns that we and others (including the IMA and AIMA) have raised and has provided a welcome clarification of its view and its policy in the immediate future:

- The FCA acknowledges that there is still a lack of clarity at the EU level on how block trades should be reported and who should be identified as the counterparty;
- The FCA's view – as we previously reported - has not changed and it continues to believe that a block trade executed by an investment manager on behalf of underlying clients *is a trade in itself* which should be reported by the investment manager and its market counterparty. (In accordance with that view, the FCA believes that the investment manager should be reported *as the counterparty to the block trade*, but field 12 of the Counterparty Data section of the report (trading capacity) should reflect the fact that the block trade has been executed by the asset manager as agent for the account of and on behalf of clients.)
- However, in light of the uncertainty and lack of clarity at the EU level, the FCA says while investment managers may volunteer to report block trades in line with its view (as outlined above) **it does not expect firms to do so.**
- **Therefore, while allocations should be reported as individual contracts, asset managers acting as agent do not need to report a block trade in the immediate future.**

While this will be a welcome relief for asset managers, it may only mark a temporary stay of execution. The FCA is seeking to clarify its position at the EU level through the ESMA Q&A process. It remains to be seen whether or not ESMA will adopt the FCA's view and, in either case, how long it will be before clear guidance is available in writing. It is to be hoped that if the FCA view were to prevail, firms would be given sufficient time to change their systems and processes to report block trades.

For further information on any of the issues discussed above, please contact any of the financial services partners named below.

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