

## Insider Dealing (Securities and Regulated Markets) Order 2023

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April 20, 2023 Martin Pugsley, Michael Byrne, Christopher Orford

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**PRACTICES** Corporate, Capital Markets and Securities, Financial Regulatory, Regulatory Compliance

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The Insider Dealing (Securities and Regulated Markets) Order 2023 (the “Order”) was published on 17 April 2023 and takes effect on 8 May 2023. The Order will align the criminal offence of insider dealing (under Part of the Criminal Justice Act 1993 (the “CJA”)) with the civil offence of insider dealing (under the UK Market Abuse Regulations (“UK MAR”)) in respect of securities and markets.

The Order revokes the Insider Dealing (Securities and Regulated Markets) Order 1994 (and its subsequent revisions) which captured a narrower list of securities and regulated markets (and which was nearly 30 years out of date) and ensures that there is now a consistent application of both the civil and criminal insider dealing offences.

As is already the case under UK MAR (and the civil offences thereunder), a “security” for the purposes of the CJA (and the criminal offences thereunder) is now aligned to the list in Part 1 of Schedule 2 of the Financial Services and Markets 2000 (Regulated Activities) Order 2001 (as amended) being, among other things, transferable securities.

In order for the criminal offence of insider dealing to be committed under the CJA in relation to a security, that security must be either (i) traded on a specific trading venue or (ii) its price or value must be linked to a security traded on a specific trading venue. The relevant trading venues are defined by reference to UK MAR (in a further alignment of both the civil and criminal insider dealing offences) being the UK, EU or Gibraltar regulated markets, multilateral trading facilities or organised trading facilities, as well as the NASDAQ, the SIX Swiss Exchange and the New York Stock Exchange.

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