



26 July 2023

CENTRAL BANK OF IRELAND – MARKET ABUSE THEMATIC REVIEW

**MAR REQUIREMENTS OF TRADING VENUES TO PREVENT, DETECT AND REPORT
SUSPECTED MARKET ABUSE**

Dear Chairperson,

During 2022, the Central Bank of Ireland (the “Central Bank”) carried out a Themed Inspection (the “Inspection”) to examine how effective Trading Venue Operators (“Trading Venues”) are in the area of market surveillance and ensuring their compliance with the Market Abuse Regulation (“MAR”) Article 16 (1).¹

The Central Bank is the competent authority in Ireland for MAR. The Inspection was a continuation of the 2020/2021 MAR thematic review carried out on MiFID Investment Firms, which resulted in the Dear CEO Letter “Trade Surveillance and Reporting of Suspected Market Abuse” (the “2021 Dear CEO Letter”).

Market abuse is unlawful behaviour within financial markets. It comprises of insider dealing, unlawful disclosure of inside information, market manipulation or related attempts. Market abuse undermines integrity and investor confidence in the proper functioning of the market.

The Trading Venue sector in Ireland has seen significant expansion in recent years, driven principally by Brexit. These changes have increased the volume and diversity of instruments that are traded in these entities. This Inspection was conducted to examine how Trading Venues are maintaining effective arrangements, systems and procedures aimed at preventing and detecting insider dealing and market manipulation and included on-site testing and engagements with senior management, compliance and front line surveillance staff.

The Inspection identified a number of failings around the effectiveness of market surveillance arrangements including a significant lack of board awareness and accountability, weak quality

¹ Trading Venues are defined as MiFID investment Firms that have the authorisation to operate either a Multilateral Trading Facility (MTF) and/or Organised Trading Facility (OTF). This definition also includes MiFID Market Operators, that operate Regulated Markets and MTFs.



assurance procedures, insufficient resourcing (including at local level) and poor alert closure and calibration governance.

The Central Bank has clearly communicated its expectations of firms and their legal obligations in relation to market abuse monitoring and prevention through, (i) the 2021 Dear CEO Letter and (ii) the Securities Market Risk Outlook Report in 2021 and 2022. These findings show that market surveillance is not a high priority for CEOs and their Boards.

Issues Identified

1. Governance, MI Reporting and Training

Effective trade surveillance systems must have robust governance and oversight from the Board and senior management and this should include good quality training, Management Information (“MI”) and escalation procedures. The following issues were identified:

- Boards, Senior Executive Management Teams and Second Line of Defence (“2LOD”) could not demonstrate the required level of knowledge, accountability and ownership in relation to surveillance systems.
- There is an absence of Compliance, Risk or Internal Audit specific reviews on surveillance functions.
- The MI produced on Market Abuse within the Trading Venues reviewed was not sufficiently detailed to evidence adequate escalation of issues, alert effectiveness, and trends regarding the number of Suspicious Transaction Order Reports (“STORs”) submitted to the Central Bank.
- Specific surveillance training was not provided in a formal basis to all staff, including Board members.

2. Prevention, Detection and Assurance

The Central Bank assessed whether Trading Venues had sufficiently effective procedures, systems and staff in place to effectively prevent, monitor, detect, and identify market abuse issues. Gaps were identified in relation to real time surveillance, resources and control measures.

- A number of Trading Venues reviewed had no real time surveillance in place with respect to the market activity on the venue.
- In many cases surveillance functions are insufficiently resourced relative to the volume of trading on the Irish venue.



- Issues were identified with the number and calibration of alerts relative to the trading volume. There were also deficiencies in procedures for alert closures and calibration changes with no corresponding assessment of actual market abuse risk.
- Where relevant, surveillance functions gave minimal consideration to cross-market and cross-product manipulation.
- There has been cases identified where outsourced surveillance functions could not demonstrate sufficient understanding and expertise in relation to the trading market structure in Ireland monitored by these centralised functions.
- Often resourcing and expertise available in the Irish Trading venue could not appropriately manage and oversee delegated functions related to surveillance.

3. STORs

STORs received from Trading Venues have decreased substantially since 2018, with the Central Bank only receiving 1.3% of total STORs from Trading Venues in 2022. It is unclear why the number of STORs received from Trading Venues should decline, when the quantity of transactions is rising and the number of overall STORs received by the Central Bank has increased. The following issues were identified during the Inspection:

- Compliance Officers with no formal role in relation to the production and review of STORs beyond receiving the final draft and submitting to the Central Bank.
- The Central Bank has received STORs from multiple market participants on a specific issue, but not from Trading Venues in relation to the same case.
- Often there are no internally set deadlines to ensure timely STOR submission.
- The principle of confidentiality was not prescribed in detail in relevant STOR policies and procedures.

There was a notable discrepancy in how each Trading Venue interprets the term 'reasonable suspicion', resulting in inconsistencies and uncertainty as to when a STOR should be submitted to the Central Bank.

Action Required

The Central Bank requires that Chairpersons take responsibility for the findings in this letter ensuring that it is discussed, minuted and actioned. Furthermore the Central Bank requires that Trading Venues immediately commence a review of their trade surveillance arrangements taking



into account this and other communications from the Central Bank and all legal obligations under MAR. The review should include, but not limited to the following areas:

- Governance and Oversight.
- MI and escalation procedures.
- The Role of Compliance, Risk and Audit Functions.
- Resourcing, expertise and training.
- Delegation arrangements.
- Surveillance alerts produced, including their closure and updates to calibrations.

Where the Central Bank identified risks to investors and the market due to the issues outlined above, formal supervisory requirements and outcome-focused actions have been imposed on the relevant firms. In circumstances of non-compliance by entities with requirements relevant to the matters raised in this letter, the Central Bank will consider all supervisory tools available, including exercising its legal and enforcement powers where required.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gavin Curran'.

Gavin Curran

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