

# The Financial Conduct Authority

Code of Conduct

January 2016

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# 1 Introduction and principles of the code of conduct

- 1.1** Staff of the Financial Conduct Authority (FCA) are required by their contract of employment to comply with the code of conduct (the code).
- 1.2** The code exists to protect both you and the FCA. Compliance is mandatory and breaches may result in disciplinary action, up to and including dismissal. Information regarding the civil offence related to market abuse and the criminal offences relating to insider dealing and the Bribery Act are set out in Annex 2.

## The principles of the code are:

- always act with honesty and integrity
- ensure that you don't use any knowledge or information acquired through your role at the FCA to inappropriately benefit yourself or others
- always make your manager aware of any actual or potential conflicts of interest and agree with them how they should be managed
- ensure you are not open to (or perceived to be open to) improper influence through the acceptance of gifts or hospitality

These principles are not exhaustive and it is important that you follow the spirit, rather than just the letter, of the code. If you are unclear about anything, ask the code of conduct team (their details can be found on the FCA Hub) or your line manager.

## You are required to:

- read the code and familiarise yourself with it
- make the disclosures required and gain permissions as necessary
- confirm annually that you have read, understood and complied (as appropriate) with policies in the code



### 1.3 Monitoring will be the responsibility of:

- you, who must ensure that you comply with the policies, and escalate any issues you consider appropriate
- your line manager, who must ensure that any conflicts of interest are properly mitigated
- your director, who must ensure that an adequate system is in place for recording gifts and hospitality
- the ethics officer, or his nominee, who will:
  - receive reports on the gifts declared centrally and may request information from directors on the information recorded centrally to assure himself/herself that employees are complying with the policy
  - receive copies of requests to deal and may request to see documentary evidence of transactions (eg contract notes) if they see fit
  - monitor compliance annually on declarations of interest and relevant attestations and inform local management of compliance
- Internal Audit, who may also audit compliance with the policy

## 2 Conflicts of interest

### General principles

As FCA staff members, our work must be carried out in an environment that is free from any suggestion of improper influence. The FCA must be able to publicly defend the actions of its staff in relation to this code to prevent reputational damage. It is your responsibility to bring potential or actual conflicts of interest to the attention of your line manager as soon as you become aware of them.

All of us must take steps to ensure that any conflict of interest to which we may be subject does not affect, or reasonably appear to affect, a decision taken by the FCA. You must disclose all interests that could conflict, or appear to conflict, with your duties at the FCA. This includes any of your relevant interests, or the interests of your immediate family of which you are aware.

You must not exploit, or reasonably appear to exploit, any personal or professional relationships with a relevant organisation, (or an officer or employee of a relevant organisation) or an organisation with which the FCA has a contractual relationship (or an officer or employee of such an organisation)

### What is a conflict of interest?

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- 2.1** A conflict of interest arises when your work for the FCA could be affected by a personal interest, personal association or personal interest or association of your immediate family. It becomes significant if an independent third party might reasonably take the view that there is a risk of your resultant actions (or those of a personal associate) being affected, whether or not they are actually affected.
- 2.2** Conflicts of interest may arise in various ways. For example, as the result of:
- a.** a direct or indirect financial interest
  - b.** a direct or indirect financial interest held by a commercial undertaking with which you have connections
  - c.** a personal association or relationship with those affected, or likely to be affected, by the information or issue in question
  - d.** an expectation of a future interest (for example, future employment)
  - e.** in some cases, a previous association with the information or issue in question
  - f.** a relevant interest of an immediate family member, in the types of circumstances set out above at a-e



- g.** an interest arising from a common interest grouping, such as a trade association or other public or private society

**2.3** This list is not exhaustive, nor will all of the examples necessarily give rise to significant conflicts of interest. If you are in doubt about whether a conflict has arisen, please consult the ethics officer (whose details can be found on the Hub).

### **Provision of products and services by relevant organisations**

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**2.4** The products and services provided by relevant organisations are wide ranging. You might hold assets (e.g. deposits, collective investments, endowment and insurance policies, etc) and/ or liabilities (e.g. mortgage loans, personal loans, credit card loans etc); you may also use a relevant organisation to provide a service such as share dealing. Although the provision of products and services is not likely to give rise to gains (or losses) in the same way as dealings in securities and related investments, conflicts of interest can arise, e.g. in the case of a dispute with the provider concerned or where there are significant arrears on a mortgage or other loan product.

**2.5** Where you believe that your relationship with a particular product or service provider could give rise to a conflict of interest, you must disclose that fact to your line manager.

### **Procedure for disclosure of interests**

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**2.6** When you start work at the FCA you must complete a disclosure of interests form using Chrysalis and provide your line manager with details of:

- any post, other employment, or fiduciary positions that you hold, or have held in the past five years in connection with a relevant organisation or an organisation that presently, to your knowledge, has a contractual relationship with the FCA
- any other significant relationships that you have, including a professional, personal, financial or family relationship, held in connection with or capable of affecting a relevant organisation. This includes the names of organisations with which you hold:
  - securities and/or related investments
  - pension products
  - investments with life assurance content
  - mortgages
  - endowment policies
  - collective investment schemes
  - holdings in investment portfolios (including where full or partial discretion is given to the investment manager)

- interests in hedge funds and private equity funds

- For the purposes of disclosure under the code, your relationship is with the firm managing your investment rather than with a particular fund
- the names of organisations with which you have entered into any ongoing formal loan arrangements under which you have borrowed a capital sum of £5,000 or more and which you expect to continue to exist for at least six months. You need not disclose the amount borrowed or its purpose, only the existence of the relationship. For the purposes of this code, you do not need to disclose payday loans, credit cards, overdrafts, peer to peer lending or other similar arrangements.
- you are also required to make a disclosure in the circumstances described in para 2.4 and 2.5. if you are in dispute with a relevant organisation over the provision of products or services.
- any individuals with whom you have a significant relationship who hold positions or are employed by the FCA, a relevant organisation or a firm connected with the FCA's business, such as a supplier or professional adviser.
- any of the above conflicts of your immediate family, to the extent to which you are aware of them.

**2.7** You must immediately notify the ethics officer through Chrysalis, and your line manager, of all changes in the information disclosed under para 2.6.

**2.8** The ethics officer will keep a permanent record of all disclosures made under this section of the code and your line manager will have access to this information. That information will be kept confidential and will not be disclosed except where there is:

- a requirement for disclosure for the purposes of managing potential or actual conflicts
- a requirement for disclosure for the purposes of disciplinary proceedings
- any legal or regulatory obligation to disclose the information

**2.9** In addition to disclosures under para 2.5 and 2.6 you are under a duty to declare to your line manager, and others as appropriate, any potential conflict of interest that arises in the course of your work, for example at meetings or during discussions. A general disclosure of interests under the provisions of the code is not a substitute for this.

**2.10** You should recognise that a relationship disclosed under these rules as potentially giving rise to a conflict of interest might lead to your line manager moving you to another role or project after full discussion of the circumstances.



## 3 Personal dealings in securities and related investments

### General principles

It is essential, both in your interests and those of the FCA, that proper arrangements are in place that allow both the FCA and you to show that individual investment decisions have not been influenced by information made available to you, confidentially, in the course of our business. This section of the code sets out the basic framework within which staff dealings in securities and related investments are managed.

You should also seek clearance in advance of carrying out any financial transaction in relation to relevant organisations not specified below, but which, in the nature and spirit of these rules, could reasonably be seen as sensitive.

### Dealings

- 3.1** You must always seek prior clearance to deal in securities and related investments in relevant organisations as set out in Annex 1 of this code. To do this, you need to complete the share dealing form using Chrysalis to obtain your line manager's consent to the proposed dealing. **YOU MUST NOT DEAL OR BEGIN THE PROCESS OF DEALING BEFORE CLEARANCE HAS BEEN GIVEN OR IF CLEARANCE IS REFUSED.** This includes calling your broker and putting them on standby to deal in specific securities. Once approval has been given you are free to deal, but must do so within two working days of clearance otherwise you must advise your line manager that the transaction has not taken place and, if appropriate, apply for clearance again.
- 3.2** All line managers have the discretion to determine whether it is appropriate for their staff to be dealing in certain securities and related investments. There are some instances where authorisation to trade will not be granted, unless in exceptional circumstances:
- Approval will not normally be given to dispose of any securities or related investments which have been held for less than six months. FCA staff are not permitted to invest in securities or related investments in any relevant organisations on a short-term speculative basis. This is for the protection of both you and the FCA, as such investments could result in a perception of an abuse of information much more easily than with other investments
  - Permission will normally be withheld if the securities or related investments concern an authorised firm, due to the risk caused by the sensitive information held across the FCA



- 3.3** The ethics officer will not routinely ask to see documentary evidence of transactions (eg contract notes) but may request such evidence if they see fit.
- 3.4** In exceptional circumstances, you may be given clearance to sell (but not purchase) Securities or related investments when you would otherwise be prohibited from doing so. An example of these circumstances would be a pressing financial commitment on your part, which could not otherwise be satisfied. The decision on whether the circumstances fall into this category must be made both by your line manager and, to ensure consistency in approach, the ethics officer.

### **Vesting of Securities awarded through an employee share scheme**

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- 3.5** If you give an instruction to sell sufficient securities to meet a tax charge incurred on the vesting of the same securities which have been awarded to you through an employee share scheme, or as part of a remuneration package, you are not required to seek clearance to deal under this code.
- 3.6** Under these circumstances you should email your line manager, copying in the code of conduct mailbox, stating your intention to give the instruction to sell sufficient securities to pay the tax charge. This should include an indication of the likely amount of time that this instruction will remain in force. If your intention changes, you should email your line manager, copying in the code of conduct mailbox.

### **Contracts for differences including spread bets**

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- 3.7** Taking out a contract for difference (CfD), which includes 'spread betting' in UK company securities (single equity/vanilla CfDs), UK indices/sectors or the UK equity market as a whole, is prohibited. However, you are able to invest in a fund of CfDs where full discretion is given to the fund manager. You are also prohibited from engaging in wagering contracts and fixed odd bets on UK companies or equities including indices/sectors and the UK equity market as a whole.
- 3.8** Examples of what is acceptable include:
- sporting spread bets
  - investing in a fund of CfDs
- 3.9** Examples of what is not acceptable include:
- a spread bet that the FTSE will go down
  - placing a bet that equity X will go up in value
- 3.10** The above prohibition in relation to CfDs and wagering contracts/fixed odd bets reflects the position in relation to granting dealing permission for short-term positions.



## Rights issues of relevant organisations that will affect a large number of staff

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- 3.11** If a rights issue, or similar corporate action, by a relevant organisation is likely to affect a large number of staff, the ethics officer may issue an appropriate policy on the date on which staff will be able to subscribe to the rights issue. This policy is likely to distinguish between those staff who are in possession of confidential information in relation to the relevant organisation and those who are not.
- 3.12** If a policy is not issued in relation to a rights issue of a relevant organisation permission to deal should be sought in the usual way.

## Application of the code to non-staff members

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- 3.13** The code cannot be imposed upon persons who are not employees of the FCA. However, you must recognise that there is potential for criticism if a person with whom you have a significant relationship is found to have benefited improperly as a result of holding securities or related investments in a relevant organisation.

## 4 Policy on the acceptance of gifts and hospitality

### General principles

You are likely to be offered, and may need to give, gifts and hospitality during the course of your dealings with relevant organisations and professional advisers. It is important for our staff to know the industries and stakeholders with which the FCA interacts, so the FCA encourages networking which contributes to improving our stakeholder relations.

However, the FCA needs to operate in a way that is publicly defensible, so you must be cautious about accepting and giving gifts and hospitality that could give grounds for suggestions of undue influence. The policy includes guidance, but does not attempt to cover every situation and must be interpreted by applying common sense to the particular circumstances of each case.

The policy applies only to gifts and hospitality offered to, or given by you in your role at the FCA. It does NOT apply to gifts or hospitality offered to, or given by you on a personal basis that is unconnected with your FCA employment.

You must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which you have, or may have, official dealings as a result of your employment with the FCA. (This does not apply to schemes negotiated for all employees e.g. discount schemes with local business).

### Policy

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**4.1** The policy places a number of responsibilities on you and additional responsibilities on directors as follows:

- you are responsible for ensuring that you record, and in the required circumstances, record, declare and surrender, any gifts you receive or give in the course of your work at the FCA. All employees are responsible for recording any hospitality you receive or give, which relates to your work at the FCA
- directors are responsible for ensuring that there are local processes in place to allow employees to comply with the policy and for providing reasonable assurance to the ethics officer, or their nominee, that the division is compliant with the policy. A process is required:
  - for employees to record gifts received, other than gifts that are clearly of token value which need not be recorded
  - for employees to record any hospitality received as appropriate



- for employees to record any gifts given
- for employees to record any hospitality given

**4.2** Directors must be able to produce evidence at the end of each year and provide assurance that, as far as he or she is aware, all gifts and hospitality have been recorded and that the FCA's policy has been complied with in their division.

### Policy when receiving gifts

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**4.3** You should exercise caution when accepting a gift, although it is recognised that there are circumstances in which it would be impractical or potentially offensive to refuse. If gifts are received the following applies:

- all gifts with a recommended retail price (RRP) of under £30 may be retained by you but
- MUST be recorded in the central gift and hospitality system, unless they are of token value
- monetary gifts (including redeemable vouchers) MUST NOT be accepted. If a monetary gift is received, the recipient may ask for it to be donated to a charity of their choice
- any gift received that has a RRP of £30 or more MUST be recorded in the central gift and hospitality system and THEN declared and surrendered to the Ethics Officer, or their nominee, who will make suitable arrangements for its use within the FCA or for charitable purposes or for its disposal

**4.4** It is not FCA policy to charge a fee for providing a speaker at a dinner or conference and it should be made clear that no payment is expected or required. The principles in paragraph 4.3 apply to all gifts received by an employee when giving a speech on behalf of the FCA. The principles in paragraphs 4.3 and 4.9 to 4.12 apply to hospitality received by a speaker.

**4.5** Table 4.1 sets out the position with regard to recording, declaring and surrendering gifts.

**Table 4.1**

Value of gift	Record centrally	Declare and surrender
Token value	No	No
Less than £30	Yes	No
More than £30	Yes	Yes
Monetary gifts (or equivalent)	Yes	Yes. <b>Must NOT</b> be accepted but may suggest a donation to charity. <b>The offer and evidence of what was done with the monetary offer MUST be recorded and declared.</b>

## Prizes

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- 4.6** There may be occasions when employees enter, or are entered, into competitions either by virtue of their employment at the FCA or at events which they attend in their role as an FCA employee. In some circumstances, if a prize is won, these may be indistinguishable from gifts and could be perceived as potential bribes. Accordingly, the policy in respect of gifts set out above will apply.
- 4.7** In general, if an employee wins a prize, and this is related to their employment, the prize must be recorded on the central gift and hospitality system, unless it is of a token value. Those with a value of £30 or more must be surrendered if they are awarded by:
- an event organiser you attend in relation to your employment (and if entry to the draw or competition is an automatic result of attendance at the event)
  - a supplier or prospective supplier to the FCA or
  - a regulated firm
- 4.8** If prizes are awarded in other circumstances, the Ethics Officer should be consulted for a decision on whether it would be appropriate for the employee to retain the prize. This will be a matter of judgement depending on the individual circumstances in each case but relevant factors are likely to include the identity of the donor and whether there was any element of skill involved in winning the prize.



## Policy when receiving hospitality

**4.9** Interaction with regulated firms, professional advisers and other interested parties including suppliers or potential suppliers is an important part of the FCA's work. Hospitality may be offered by them as part of that interaction and would therefore be acceptable. It is important, however, that the FCA can defend itself against any possible suggestions of undue influence and can reply to any requests under the Freedom of Information Act.

**4.10** Table 4.2 provides guidance of what is permissible and whether or not it is recordable but does not attempt to cover every situation and must be interpreted by applying common sense to the particular circumstances of each case.

**Table 4.2**

Type of hospitality	Venue	Permissible (assuming not exclusive or expensive)	Record centrally - to include details of the hospitality received and the organisation giving it
Working breakfast or lunch	FCA's premises or any third party's office	Yes	No
Working breakfast or lunch	Restaurant or other venue away from office premises	Yes	Yes
Drinks reception or similar networking opportunity	Any venue either at or away from office premises	Yes	Yes
An evening meal	Any venue either at or away from office premises	Yes	<b>Yes</b>

**4.11** Accepting exclusive or expensive hospitality could easily be misinterpreted by the press or others. It is therefore not usually appropriate to accept such an invitation except, perhaps, where it would increase your effectiveness in discharging your role or otherwise significantly further the FCA's interests. There is no comprehensive definition of what constitutes exclusive or expensive hospitality, but it would include invitations to major sporting or cultural events, particularly if only a small number of people have been invited to attend. Directors may authorise acceptance of hospitality not covered in Table 4.2 and which could be regarded as exclusive or expensive if, in their judgement and having considered all the relevant factors, they consider it appropriate. (For directors, authority should be given by their line manager).

**4.12** When making overseas visits you may be offered hospitality that in normal circumstances would be viewed as exclusive or expensive (see 4.11 above). However, it may be appropriate to accept hospitality from the host that would need to be approved retrospectively by your line manager and recorded in the central gift and hospitality system. Local customs may also favour the giving and/or receiving of gifts. If this situation is likely to arise you should take appropriate advice, agree in advance what would be acceptable with your line manager and record it in the divisional register.

- 4.13** If it has been agreed that you can accept an invitation to give a speech then it is acceptable for a third party to meet some or all of the travel and/or accommodation costs. This applies whether or not you would normally be attending the event as a delegate anyway. The position in respect of food is detailed in Table 4.2 above.

### **Policy when giving gifts and hospitality**

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- 4.14** You should exercise caution when giving gifts (except 'token' gifts) and hospitality to third parties. However, if it is required, the following principles should be applied.
- the giving of gifts and hospitality must be pre-authorized by the relevant divisional director and must be recorded in the central gift and hospitality system
  - in determining whether the giving of a gift is appropriate, consideration should be given to the recipient, the value of the gift and the reason for it
  - hospitality given should be within the boundaries of the FCA's travel and expenses policy



# Annex 1

## Definitions

In this code the words and expressions set out below have the following meanings:

- 1. Dealing:** Includes purchases, sales, subscriptions, acceptance of take-over or other offers and all other acquisitions or disposals of securities and related investments, or any rights or interests in securities and related investments. Entering into any contract to secure a profit or avoid a loss by reference to fluctuations in securities' price; the acquisition, disposal, or exercise of any option or other right or obligation to acquire or dispose of securities or, in all cases, an irrevocable instruction to do so. Off market dealings and transfers of securities as gifts are all examples of dealing.<sup>1</sup>
- 2. Ethics officer:** The FCA company secretary or such other person with responsibility from time to time for administering and interpreting the code of conduct.
- 3. Hospitality:** Invitations to attend an event (including sporting and cultural events), meal or other similar occasion with someone who works for or represents a relevant organisation; a professional adviser of a relevant organisation; or an actual or potential supplier of the FCA where you can reasonably be perceived to be representing the FCA.
- 4. Immediate family:** Includes spouses, partners and dependent children, or anyone for whom you make financial decisions (for example a person over whom you hold a power of attorney).
- 5. Relevant organisations:** Those companies, or any company within the same group of companies, either seeking to be or currently listed, or otherwise publicly traded in the UK and/or quoted and/or regulated in the UK by the FCA as appropriate. This includes those subject to supervision, monitoring and/or enforcement work. Where a company is listed or otherwise publicly traded in more than one country, and one of those countries is the UK, regardless of which country the dealing takes place in, the company is still considered a relevant organisation and the provisions of this code apply. For the avoidance of doubt, hedge funds and private equity funds are relevant organisations. For the purposes of sections 2 and 4, relevant organisations will also include partnerships and unincorporated associations.
- 6. Securities and related investments:** Includes shares (as well as individual company shares held in single company PEPS, ISAs or other wrappers), bonds, debentures and any other financial investments, including debt instruments, futures, options, and other financial derivatives.

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<sup>1</sup> The transfer of shares as a gift to a spouse, civil partner or minor child does not constitute dealing.



7. Dealing permission is not required for the following investments but the relevant interests must still be declared as set out in section 2:
- collective investment schemes (such as unit trusts, OEICS and exchange traded funds), including any held in a general PEP, ISA or other wrapper
  - life insurance products, including pensions
8. **Significant relationship:** A relationship with another person, which an independent third party might reasonably consider could affect your actions, or those of a personal associate (whether or not it does so affect your conduct). If you are in any doubt about this, you should discuss it with your line manager before you complete the relevant form online using Chrysalis.
9. **Staff:** Employees (whether permanent or temporary), including executive members of the Board, advisers, and FCA employees seconded to other organisations. For the avoidance of doubt, contractors and individuals seconded in to the FCA from other organisations are not subject to the provisions of this code.



## Annex 2 Legislation

### Market Abuse and insider dealing – an outline

The market abuse regime was introduced in December 2001, and has since been updated to take account of EU legislation, the Market Abuse Regulation (Regulation No. 596/2014), which began to apply on 3 July 2016. The main provisions of the regime are set out in the Market Abuse Regulation itself, alongside its implementing legislation. The Financial Services and Markets Act 2000 (FSMA) has been amended to accommodate the new regime, for example to give the FCA the requisite powers to supervise and enforce the Regulation. The FCA has also set out guidance in the FCA Handbook on the new market abuse regime.

Certain of the types of market abuse defined in the Market Abuse Regulation involve the misuse of information where that information is relevant and not generally available. One factor to be considered when assessing whether behaviour amounts to market abuse is whether the person concerned has acted in accordance with the standards expected of them given their position in relation to the market. FCA staff are expected to observe the highest standards in relation to their personal dealings. The market abuse regime is a civil regime and, in cases where market abuse has occurred, the FCA can impose a financial penalty, as well as taking other action such as seeking an injunction to freeze a person's assets, or making a public statement.

Below is a link to MAR 1 in the FCA Handbook, which includes some interpretative guidance on these offences:

<https://www.handbook.fca.org.uk/handbook/MAR/1/1.html>

The UK also has a criminal insider dealing regime, which is set out in the Criminal Justice Act 1993 (the CJA). This makes it a criminal offence for an individual who has information as an insider to either deal in securities on a regulated market, to encourage another person to deal on a regulated market, or to disclose inside information. Regulated markets include, for example, all major European stock exchanges such as, but not limited to, the London Stock Exchange and NYSE Euronext. When trading through a professional intermediary, the CJA extends to transactions on markets other than regulated markets. The FCA may decide, in concluding investigations into a potential misuse of information or an insider dealing case, that the behaviour is sufficiently serious to justify a criminal prosecution. An offence under the CJA is punishable by up to seven years imprisonment or a fine, or both.

Part 7 of the Financial Services Act 2012 also contains other criminal offences, such as the offences of making misleading statements and misleading impressions. These are punishable by up to seven years imprisonment or a fine.

### **Bribery and corruption – an outline**

The Bribery Act 2010 (the Act) has consolidated previous UK legislation relating to bribery and introduces four new offences which are relevant to employees accepting and giving gifts and hospitality. These new offences are set out below:

- making a bribe – the promise or giving of an advantage with the intention of
- inducing or rewarding the improper performance of a relevant function or activity
- accepting a bribe – the receipt or acceptance of an advantage for the improper performance of a relevant function or activity
- bribery of a foreign public official where the intention is to influence an individual in their official capacity in order to win or retain business
- failing to prevent bribery – a strict liability corporate offence where a commercial organisation fails to prevent bribery by those performing services on its behalf

Since the introduction of the Act, industry and public focus has centred on its application to gifts and hospitality. Sensible, reasonable hospitality, gifts or promotional expenses (and business trips) which, in their broader context, are not aimed at influencing performance and decision making, will remain outside the scope of the Act and should not attract prosecution. Only where the payment, gift or hospitality is extraordinary or lavish, or has the ability to influence or reward improper performance by the recipient, will the payment be scrutinised under the Act.

It is clear that those working in regulation and procurement are possible targets for bribery. Therefore employees should be cautious about accepting or giving any gifts or hospitality.

The Act makes offering or accepting bribes illegal. To comply with the Act the FCA is required to implement a policy which reflects the Act's terms. It is the responsibility of each employee to understand and comply with the policy. In addition bribery has been added to the list of wrongdoings that qualify for protection under the Public Interest Disclosure Act 1998. This is reflected in the FCA Whistleblowing Policy and the acceptance or the offering of a bribe can be found in the list of examples of gross misconduct.

