

Chapter 2

Commission Delegated Regulation (EU) 2016/908

Article 7 Risks for the integrity of related markets within the United Kingdom

In determining whether a market practice proposed to be established as an AMP complies with the criterion set out in point (e) of Article 13(2) of Regulation (EU) No 596/2014, the Financial Conduct Authority shall consider:

- (a) whether the transactions related to the performance of the market practice once established as an AMP will be reported to the Financial Conduct Authority on a regular basis;
- (b) whether the resources (cash or financial instruments) to be allocated to the performance of the AMP are proportionate and commensurate with the objectives of the AMP itself;
- (c) the nature and level of the compensation for services provided within the performance of an AMP and whether that compensation is established as a fixed amount; where variable compensation is proposed, it shall not lead to behaviour which may be prejudicial to UK market integrity or to the orderly functioning of the UK market and shall be available to the Financial Conduct Authority for assessment;
- (d) whether the type of persons who will perform the AMP ensure, where appropriate to the market under consideration, an adequate separation of the assets dedicated to the performance of the AMP from the assets of its clients, if any, or its own assets;
- (e) whether the respective duties of the beneficiaries and of the persons performing the AMP or, where appropriate, the duties shared by them are clearly defined;
- (f) whether the type of persons who will perform the AMP have in place an organisational structure and adequate internal arrangements to ensure that the trading decisions relating to the AMP remain confidential from other units within that person and independent from orders to trade received from clients, portfolio management or orders placed on its own account;
- (g) whether an adequate reporting process between the beneficiary and the person who will perform the AMP is in place to allow the exchange of the necessary information to fulfil their respective legal or contractual obligations, if applicable.