

# TRIVERS SMITH

10 SNOW HILL  
LONDON EC1A 2AL  
TEL: +44 (0) 20 7295 3000  
FAX: +44 (0) 20 7295 3500  
DX 79 LONDON  
WWW.TRAVERSSMITH.COM

Mr Stuart Willey  
The Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

YOUR REF:  
OUR REF: MAC/CD1  
DOC ID: 6782146  
DIRECT LINE: +44 (0) 20 7295  
EMAIL:

19 February 2008

Dear Stuart

## **MiFID Implementation - Financial Promotions**

This is a very belated thank you to you and Mark for attending the CLLS meeting to discuss our letter on financial promotions. I think we all left with a number of issues to think further about.

There was one issue on which I think we were all clearly agreed and which I am aware is becoming a burning issue across the industry. This concerns the issue of when a communication is a marketing communication to a client of a firm's MiFID business. I have this week been contacted by three corporate finance firms and trade associations all of whom have had this point raised with them. The confusion on this point is leading some firms to think that where communications are made to corporate finance contacts, a MiFID firm cannot rely on the exclusions in the Financial Promotion Order. This was not the view of the CLLS Committee and our understanding is that it is not the FSA's view. I would be very grateful if the FSA could take steps to make public its view on this issue, because it clearly is causing significant market confusion.

There is a second issue which we have discussed previously, which is not referred to in the CLLS letter. This relates to the position of placees. When we spoke in December you mentioned that the FSA had seen an article which suggested that placees had to be treated as clients and could not be corporate finance contacts, and I think you indicated that the FSA did not think that this was the case. The CLLS would agree and believe that the FSA has made it perfectly clear that a corporate finance contact will not be a client. I have again had a number of worried telephone calls this week, which I suspect all probably emanate from comments coming from a single source. The issue has also been raised with LIBA and Tim Baker called me to discuss. Again I think it would be really helpful if the FSA were able to make a clear and public statement on the position in relation to this. If it would help to discuss what you might say, I would be more than happy to offer comments.

I will write to you shortly on the other issues we discussed, but I have become aware that the above two issues need some urgent clarification. It so happens that I am away next week, but if you would like to speak to anyone while I am away, Jane Tuckley is here.

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Kind regards.

Yours sincerely

*Carol Durdall*

PP. MARGARET CHAMBERLAIN