Summary: Intervention & Options

Department /Agency:	Title:	
HM Treasury	**Impact Assessment of notifying trading suspensions via a Regulatory Information Service.**	
Stage: Final	**Version:** 2	**Date:** 11 January 2010
Related Publications:		

Available to view or download at:

http://www.hm-treasury.gov.uk

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What is the problem under consideration? Why is government intervention necessary?

The FSA has the power under section 313A of FSMA to require institutions to suspend or remove financial instruments from trading, but currently the FSA must write to each institution to notify them of such a suspension. Requiring the FSA to provide written notification to each investment firm trading outside organised platforms means that it is not possible to suspend such trading. Government intervention is needed to amend FSMA so that the FSA can give notice of its decision to suspend or remove financial instruments from trading via a Regulatory Information Service (RIS).

What are the policy objectives and the intended effects?

To simplify the means by which FSA notifies institutions that it has suspended, or removed, a financial instrument from trading under section 313A of FSMA. This ensures that section 313A trading suspensions can be achieved quickly throughout the whole market in a timely manner in cases where it is appropriate and not simply confined to suspensions of trading on Regulated Markets and other organised trading platforms such as Multilateral Trading Facilities (MTF).

What policy options have been considered? Please justify any preferred option.

1. Retention of the current method of writing to each firm individually.

2. Updating the Financial Services and Markets Act 2000 so that the FSA can inform institutions of a trading suspension by announcement on a RIS, rather than individually by written notification. The legislative option is preferable as it would reduce the risk of trading in suspended instruments and promote the government's objective to provide the conditions for efficient, stable and fair financial markets.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The legislation will be reviewed at appropriate intervals to ensure that it reflects current practicable arrangements.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

....Date: 15/01/2010

Summary: Analysis & Evidence

Policy Option: 2	**Description: Amendments to FSMA to allow FSA to inform institutons of a trading suspension via a Regulatory Information Service**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	Assuming all institutions already have access to Regulatory Information Services, then no extra costs would be incurred.
£ Nil		
Average Annual Cost (excluding one-off)		
£ Nil		**Total Cost** (PV) **£ Nil**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yrs**	FSA saves £10,000 per trading suspension. The total benefit is the benefit over 10 years, at a discount rate. It is assumed that there will be one section 313A trading suspension per year - this assumption is dependent on market conditions however it is anticipated it would only be used in exceptional circumstances.
£ Nil		
Average Annual Benefit (excluding one-off)		
£ 10,000		**Total Benefit** (PV) **£ 93,166**

Other **key non-monetised benefits** by 'main affected groups' Risk of the continued trading in financial instruments that should be suspended across entire market is reduced as more timely information is disseminated to the market. Opportunity cost of a firm not trading in a share, where the suspension has been lifted, is significantly reduced.

Key Assumptions/Sensitivities/Risks

The discount rate used reflects the effect on the price of money from 2009 over 10 subsequent years. It is assumed that all institutions already have access to Regulatory Information Services.

Price Base Year 2009	Time Period Years 10	**Net Benefit Range** (NPV) **£ N/A**	**NET BENEFIT** (NPV Best estimate) **£ 93,166**

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			As per SI	
Which organisation(s) will enforce the policy?			FSA	
What is the total annual cost of enforcement for these organisations?			£ Nil	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **Nil**	Small **Nil**	Medium **Nil**	Large **Nil**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)					(Increase - Decrease)
Increase of	£ Nil	Decrease of	£ Nil	**Net Impact**	£ Nil

Key: **Annual costs and** **(Net)**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. BACKGROUND

The Markets in Financial Instruments Directive (MiFID) was implemented in November 2007 and required competent authorities to be given broad powers to suspend trading in a financial instrument. The FSA was given these additional powers under Part 18A of the Financial Services and Markets Act 2000 (FSMA) as the competent authority in the UK. However, the procedural provisions under FSMA require the FSA to identify and write individually to each institution (including regulated market and MTF) to notify them of such a suspension. In order to suspend trading in a financial instrument across the market, the FSA needs to be able to notify individual institutions who trade outside organised platforms directly with each other, (known as bilateral or over the counter (OTC) trades) or with clients as well as on Regulated Markets and trading platforms. There could be thousands of firms engaged in the OTC trading of the suspended financial instrument and therefore identifying and writing to firms individually is not the most practical and efficient way of notifying the market.

The preferred proposal is to enable the FSA to give notice of its decision to suspend trading via a Regulatory Information Service (RIS). This would also allow the FSA to identify the institutions concerned as a class instead of having to identify each institution individually. For example, to notify all investment firms operating MTFs or acting as systematic internalisers. Systematic internalisers are investment firms, which, on an organised, frequent and systematic basis, deal on their own account by executing client orders outside a regulated market or an MTF. However, the FSA will retain the right to notify institutions individually, where appropriate.

2. OPTION 1 – Retention of current method

Under option 1, the FSA would retain the current practice of identifying and notifying each institution that trades in the suspended financial instruments individually in writing.

Benefits

The 'do nothing' option would conserve the status quo.

Costs

For each section 313A trading suspension, it is estimated that the total costs would amount to £10,000. FSA estimate that there would be one section 313A trading suspension per year – these would be relatively infrequent occurrences, made under exceptional circumstances. A decision would be made on a case-by-case basis as to whether OTC trading should be suspended along with trading on organised markets. Nevertheless, they are market dependent and legislation should not hinder the FSA by making it difficult and costly to carry out its powers. £10,000 is an approximate figure and comprises preparation of the notifications, estimated to cost around £2,500 for sufficient staff to handle this in a timely manner and postage and stationery, which is estimated to cost around £7,500 for mailing to around 12,500 recipients. These costs assume that the notification process takes place twice – a mailing to inform firms of a trading suspension, followed by a second mailing to alert them that the suspension has been lifted.

3. OPTION 2 – NOTIFICATION VIA A RIS

Benefits

The legislative changes to FSMA would empower the FSA to deliver a simpler, more effective method of implementing section 313A trading suspensions throughout the whole market.

The proposed amendments to FSMA will -

- Enable the FSA to use its existing powers effectively to suspend OTC trading and/or trading with clients;
- Ensure that all institutions trading in the suspended share are informed simultaneously;
- Mitigate information asymmetry risk in the market; ensuring that Regulated Markets, trading platforms (e.g. MTFs) and other investment firms have access to the same level of information;
- Provide cost savings to the FSA of approximately £10,000 per section 313A trading suspension;
- Allow the FSA to notify certain types of institutions as a class, rather than individually;
- Give the FSA the flexibility to notify each institution individually, if appropriate.

These changes are necessary to ensure that the FSA has effective tools to deliver its objectives of market confidence and protection of consumers.

Costs

It is not anticipated that institutions would incur any extra cost as a result of these changes as it is assumed that all institutions already have access to RIS.

For these purposes, an RIS will include any information services in the UK which have been approved by the FSA for the dissemination of regulated information (eight services have been so approved at the date of this impact assessment), or an information service established in another EEA state which disseminates regulated information for the purposes of Article 21 of the Transparency Directive. [1]

Information service providers such as Primary Information providers (PIPs) and secondary information providers (SIPs - for example Bloomberg and Thomson Reuters) are already used for the dissemination of various regulatory announcements, such as Transparency Directive notifications and take the information provided by the RISs and bundle it together into a single source of regulatory information. Regulated Markets and MTFs may also make an announcement that trading has been suspended on their trading platform. In addition to giving notice of its decision via a RIS, the FSA will also issue a press release on its website.

All firms actively engaged in securities trading are therefore likely to have access to such services. Indeed, it would be expected that all institutions that are engaged in trading would be keeping constantly abreast of all relevant regulatory information notices.

[1] Directive 2004/109/EC on the harmonisation of transparency requirements.

The risk of an institution not seeing the notification, and therefore potentially incurring regulatory penalties, is considered low because the process is already established for regulatory and other market notices.

4. COMPETITION ASSESSMENT

Neither proposal has any implications for competition. The proposals are to do with the method of notification, rather than the power to suspend trading in itself under Section 313A, and have no impact on entry to market or on conduct of business.

5. IMPACT ON SMALL FIRMS

The proposals have no special impact on small firms: small firms are not exempt from the practice of viewing existing regulatory information announcements.

6. EQUALITY ASSESSMENTS

The legislation should have no impact on race, disability or gender equality.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No