

**CFRED's 27<sup>th</sup> Corporate and Finance Law Seminar:**

**INSIDER DEALING ENFORCEMENT IN THE UK:  
SOME KEY PERSPECTIVES ON UK EXPERIENCES  
PAST, PRESENT AND FUTURE**

by

**Dr. Sarah Wilson**

*Senior Lecturer, York Law School, University of York*

Chaired by: **Prof. Robin Huang**, *Faculty of Law, CUHK*

**12 April 2016, Tuesday, 12:00 – 1:30 p.m.**

*Faculty of Law Boardroom, 6/F, Lee Shau Kee Building, CUHK, Shatin, N.T.*

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In marking my gratitude to the Law Faculty of the Chinese University of Hong Kong for supporting my research visit, it is an honour to be presenting to the Centre for Financial Regulation and Economic Development. This discussion of key perspectives on insider dealing enforcement is framed by longstanding interest in the challenges presented by financial crime in the UK, and also by an increasingly international focus for this research, where much of this – both UK focused and international- is concentrated on securities violations.

In focusing on insider dealing/trading specifically within this, the current state of play will be discussed by reference to UK laws governing insider dealing, both criminal and non-criminal, and on approaches to enforcement undertaken by Financial Conduct Authority (and its predecessor the Financial Services Authority). Prior to being replaced by the FCA in 2013, the FSA was highly vociferous in its messages of intolerance for insider dealing, and did much to publicize its distain for longstanding arguments that insider dealing/trading causes no harm, and that it can even actually benefit financial markets (in the vein of Henry G Manne's classic arguments against insider trading prohibitions). In examining the FCA/FSA's track record in both criminal and non-criminal enforcement since the inception of the regulatory regime which created the FSA – the Financial Services and Markets Act 2000- the paper will draw upon key discourses which illustrated FSA enthusiasm for non-criminal enforcement, and ones providing support for its later views that criminal enforcement has greater deterrent effect, as well as current FCA enforcement activity.

These UK experiences are considered alongside current trends evident in new European legislation designed to toughen responses to insider dealing and place greater emphasis on criminal enforcement, embodied in the Market Abuse Regulation (MAR) 2014 and Directive on Criminal Sanctions for Market Abuse (CSMAD) 2014, and in attempts in the US to extend the reach of insider trading prohibitions, embodied in *US v Newman* [2014] and *US v Salman* [2015]. Other key reference points from the recent past include the earliest criminalisations of insider dealing in the UK pursuant to the Companies Act 1980 and the Company Securities (Insider Dealing) Act 1985, and much longer-standing criminalization of other securities violations (namely market manipulation) in nineteenth-century Britain.

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## ABOUT THE SPEAKER:



**Sarah Wilson** is a Senior Lecturer in Law at York Law School, University of York in the UK. She qualified in Law at Cardiff Law School and then commenced studies in Modern British History gaining a MA (History) and PhD (History). Her key research interests lie in Financial Crime and Financial Regulation, Trust Law, and a 'Law and History' combination of traditional Legal History and Modern British History.

Sarah has published widely in Financial Crime and the sphere of wider Financial/Banking law and regulation. Her monograph *The Origins of Modern Financial Crime: Historical foundations and current problems in Britain* (Abingdon: Routledge (Criminology), 2014) provides a multi-disciplinary analysis of financial crime from c 1830 to the present, and seeks to encourage greater utilisation of history and historical methodology for legal research and teaching. This work was shortlisted for the 2015 Wadsworth Prize awarded by the Business Archives Council for outstanding contribution to the study of British Business History. Other recent publications include 'The new Market Abuse Regulation and Directive on Criminal Sanctions for Market Abuse: European capital markets law and new global trends in financial crime enforcement', (2015) 16 ERA Forum (the Journal of the Academy of European Law), 427, and (with TI Arvind and J Gray) 'From the Mid-Nineteenth Century Bank Failures in the UK to the Twenty-First Century Financial Policy Committee – Changing Views of Responsibility for Systemic Stability' in R Michie, et al (eds) *Complexity, Crisis and the Evolution of the Financial System: Critical Perspectives on American and British Banking* (Cheltenham: Edward Elgar, 2016). Sarah is a longstanding contributor to Lloyds Law Reports Financial Crime, has recently covered for this publication the US insider trading decisions in *US v Salman* [2015] United States Court of Appeals 9 Cir and *US v Newman and Ors* ([2014] United States Court of Appeals 2d Cir.

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