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**From:** Freedom of Information  
**Sent:** 30 May 2013 15:46  
**To:**  
**Subject:** Freedom of Information: Right to know request

Our Ref: 2961

Dear

**Freedom of Information: Right to know request**

Thank you for your request under the Freedom of Information Act 2000 ("the Act") for the following information.

1. "*... the number of financial advisers and mortgage brokers, individuals or firms, currently under FCA investigation?*";
2. "*... the broker and adviser numbers separately?*";
3. "*... the reason they are being investigated?*";
4. "*... the names of those under investigation?*".

Before answering your request it may be helpful to inform you that The Financial Services Authority (FSA) has now been succeeded by the Financial Conduct Authority (FCA).

Your request has been considered and I can confirm that the FCA holds the information you have requested. For ease of reference I have numbered your request, points 1-4, and will answer the request in that order.

In relation to point 1 of your request, as at 13 May 2013 the number of financial advisers and mortgage brokers, individuals or firms currently under FCA investigation is 32.

With regard to point 2 of your request, as at 13 May 2013 the number of financial adviser firms and individuals currently under investigation is 29 and the number of mortgage broker firms and individuals currently under investigation is 2. Furthermore, there is 1 firm currently under investigation that covers both mortgage and financial advisers.

With regard to point 3 of your request, the reasons for the investigations relate to the following categories.

- Financial Crime
- Mortgage Fraud
- Mis-selling and Suitability of advice
- Treating Customers Fairly
- Systems and Controls
- Anti-bribery and Corruption Controls
- Competence and/or Integrity
- Complaints handling

- Undertaking regulated activities without permission
- Promotion and Arrangement of Unregulated Collective Investment Schemes (UCIS) and Governance

Turning to point 4 of your request, we cannot disclose the names of those individuals currently under investigation because we consider that section 40 (Personal information) of the Act is applicable. We consider that to disclose the individual's identities would breach the Principles in the Data Protection Act 1998. Therefore the following exemption applies.

- **Section 40 (Personal information)**

To the extent that the information that we hold contains personal data about an individual, section 40(2)(b) of the Act provides that "Any information to which a request for information relates is also exempt information if ... either the first or second condition below (see sections 40(3) and 40(4) of the Act) is satisfied".

We have applied this exemption because the first condition (as stated in section 40(3) of the Act) is satisfied as some of the information requested comprises the personal data of individuals other than yourself, which if disclosed would breach the Principles in the Data Protection Act 1998. It would be a breach of Principle 1 to disclose such information, as it would not be lawful or fair to the individuals concerned. The individuals concerned have not given their consent for this personal detail to be made public and the release of such information may be detrimental to the individuals themselves.

We also consider that disclosure of the names of those firms which are currently under investigation could prejudice the commercial interests of the firms and therefore the following section 43 (Commercial Interests) exemption applies.

- **Section 43 (Commercial Interests)**

Section 43(2) of the Act provides that information is exempt if its disclosure would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it).

The commercial interests of the firms are likely to be harmed in several ways by disclosing the information requested. In particular, disclosure of this information would be likely to lead to further comment and/or speculation, which would or would be likely to harm the firm's brand and so harm the commercial interests of the firms and stakeholders in it, including employees. As there is no routine public disclosure of a firm's dealings with the FCA, ad hoc public disclosure under the Act would be likely to attract a disproportionate amount of attention to the firms.

The exemption in Section 43 (Commercial Interests) is qualified and we have balanced the public interest for and against disclosure as required by the Act.

*In favour of disclosure*

- There is a strong public interest in favour of transparency, and in the public being aware of any enquiries, considerations or actions we may be taking in relation to the firms and/or individuals who are, or may be, operating in the financial services industry.
- Disclosure of the information would reassure the public about the effectiveness of the regulatory approach taken by the FCA, and demonstrate how the FCA responds to matters arising within the sector it regulates.

- Disclosure of the names of the firms would also provide information to consumers to assist them in making decisions about their dealings or potential dealings with the firms and individuals that are, or may be, operating in the financial services industry.

*Against disclosure*

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible.
- Confirmation of a regulatory investigation has the potential to mislead and prejudice the financial markets and consumers, because either misconduct or a clean bill of health may be inferred incorrectly from the mere fact that we may be making, or have made, regulatory enquiries at any time.
- Disclosure of the names of the firms in question could also lead to widespread speculation which could hinder and prejudice the progress of any current and/or future FCA enquiries, considerations and/or action. It could also affect a firm's brand and reputation in the market in which they operate in the absence of due process having been followed - i.e. in the absence of any formal public announcement and without the firm having had the opportunity to comment.
- Furthermore, disclosure of the information could potentially lead consumers, the media and the financial services industry to draw the wrong conclusions.

We have balanced the public interest for and against disclosure as required by the Act. In this case, in our view the public interest lies against disclosure for the reasons set out above.

If you have any queries or are unhappy with the decisions made in relation to your request please contact me. If I am not able to resolve your concerns I will advise you of the process for an internal review. If you wish to exercise your right to an internal review you should contact us within three months of the date of this letter.

If you are not content with the outcome of the internal review, you also have a right of appeal to the Information Commissioner at:

*Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF*

*Telephone: 01625 545 700  
Website: [www.ico.gov.uk](http://www.ico.gov.uk)*

Yours sincerely

**Information Access Team**



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