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Via Email

9 October 2014

Our Ref: FOI3646

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. Please supply in aggregate the number of private warnings issued to individuals by the FCA in 2014 to date.*
- 2. Please also supply, by way of comparison the number of private warnings issued by the FCA (or FSA if appropriate) in each year to 2009 inclusive*
- 3. Out of the total number of private warnings, please supply a break-down of how many pertained to the investigation of the alleged manipulation of LIBOR and other benchmark rates.'*

Before answering your request, it might be helpful to note that not all cases the FCA investigates will result in a public outcome. In some cases a private warning may be issued where we have concerns about the behaviour of a firm or approved person, but we decide it is not appropriate to bring formal disciplinary action. Further information is published in the FCA's Enforcement Annual Performance Account (see in particular page 17 which sets out more information about the use of private warnings) and paragraphs 7.10 - 7.19 of the FCA's Enforcement Guide, which provides greater detail on our policy and practice as regards private warnings. Both of these publications can be found on our external website at: <http://www.fca.org.uk/static/documents/corporate/enforcement-annual-performance-account-13-14.pdf> and http://media.fshandbook.info/Handbook/EG_Full_20140401.pdf

Turning to your request, each point will be answered in turn.

In regard to point 1, the aggregated number of private warnings issued to individuals by the FCA from 1 January to 16 September 2014 is 15.

In response to point 2, the number of private warnings issued by the FCA (and its predecessor the FSA) in each year to both firms and individuals is listed in the table

below. Please be aware, in some instances more than one private warning can be issued for the same case where multiple individuals or firms were involved.

Year	Total
2009	20
2010	21
2011	22
2012	64
2013	16
2014 to date	62

Adopting the current definition of a benchmark, as a reference price or rate and in response to point 3 to the extent that the information we hold may relate to individuals, it is exempt from disclosure because to provide you with the actual figure could potentially lead to the identification of those individuals which would, in turn, breach the principles of the Data Protection Act 1998 (DPA). Therefore, this information is exempt from disclosure under section 40 (personal data) of the Act. For a detailed explanation as to why this exemption applies please refer to Annex A

We are also not able to disclose the information in point 3 to you because we have ongoing work in relation to LIBOR and other benchmark rates. In consequence, we are not able to disclose the information you are seeking, as we consider that section 31 (Law Enforcement) applies. A detailed explanation as to why this exemption applies can be found in Annex A.

Yours sincerely

Information Access Team

[Your right to complain under the FoI Act](#)

If you are unhappy with the decision made in relation to your request, you have the right to request an internal review. If you wish to exercise this right you should contact us within three months of the date of this response.

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.org.uk

Annex A

Section 40 (Personal information)

To the extent that the information that we hold may contain 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) would be satisfied if the information requested comprises the personal data of individuals other than yourself; which if disclosed, would breach the Principles in the Data Protection Act as it could lead to the identification of the individuals involved. It would be a breach of Principle 1 to disclose such information, as it would not be fair to any individuals concerned as the release of such information may be detrimental to such individuals themselves.

- **Section 31 (Law enforcement)**

The qualified exemption in section 31(1)(g) and 31(2)(c) and (d) of the Act applies because, disclosure of the information requested would, or would be likely to, prejudice the exercise by the FCA of its functions for the purposes of:

- ascertaining whether circumstances exist or may arise which would justify regulatory action in pursuance of any enactment; and
- ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on.

This exemption applies to the information you have requested in that such information, if disclosed now would, or would be likely to, prejudice any future enquiries and/or action we may undertake. This exemption is qualified and we have balanced the public interest for and against disclosure as required by the Act.

For disclosure

- There is a strong public interest in favour of transparency and in the public being reassured about the effectiveness of the regulatory approach taken by the FCA and disclosure of the information would demonstrate how the FCA responds to matters arising within the sector it regulates.

Against disclosure

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible.
- The disclosure of the information could lead to unnecessary speculation about the firms or individuals which could hinder and prejudice the progress of any current and/or future FCA enquiries, considerations and/or action.

On this occasion we have concluded that the balance of the public interest is in favour of maintaining the exemption under section 31 of the Act, for the reasons set out above.