

Email: foi@fca.org.uk

(By email)

17 June 2019

Our Ref: FOI6330

Freedom of Information: Right to know request

We refer to your request of 19 March 2019 under the Freedom of Information Act 2000 ("the Act") for information relating to whistleblowing reports. This follows from previous responses on this topic published on the FCA's Disclosure Log.

On 16 April and 17 May 2019 we advised that more time was required to balance the "public interest" arguments for and against disclosure in relation to the information you are seeking. This exercise has now been completed and the outcome is outlined below. We will address each point in turn.

"1. With regard to <https://www.fca.org.uk/publication/foi/foi6048-response.pdf>

- "1. The number of whistleblowing reports received in the previous 24 months that instigated investigations: 40
2. The number of whistleblowing reports received in the previous 24 months that required no further action: 909

Please note that the number of whistleblowing reports that instigated investigations or required no further action does not add up to the overall number of reports given for each period.

The remainder of the total number of reports constitute two additional categories of report:

- Reports that we are still assessing to determine their status, and*
- Reports that are considered to be of significant value and are likely to have led to some form of action, such as contacting firms to discuss allegations, but they did not result in an enforcement investigation."*

Can you give an idea of the split of the remaining 1,158 cases the number that were [sic] undetermined at November 18?"

Response:

We can confirm that, of the 1,158 cases referred to in the published response to FOI6048, 651 cases were being assessed at the time to determine their status.

2. With regard to <https://www.fca.org.uk/publication/foi/foi6005-response.pdf>

Of the four whistleblowing champions reports:

- 1) *Are these four separate individuals at four separate firms? Or multiple reports about the same person?*
- 2) *Did any of these reports lead to an investigation?*
- 3) *How many of these investigations remain ongoing?*
- 4) *If concluded – was anyone passed to enforcement?”*

Response:

We can confirm that we hold information that falls within the scope of your request. However, we are unable to provide it to you as we consider that disclosure would, or would be likely to, prejudice the exercise by the FCA of its function for the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise. Therefore, for the reasons outlined in Annex A below, this information is exempt from disclosure under section 31 (Law enforcement) of the 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 40 working days 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.

Yours sincerely

Information Disclosure Team
Financial Conduct Authority

Annex A

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(g) 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:

- the prevention or detection of crime;
- ascertaining whether any person has failed to comply with the law; and
- ascertaining whether circumstances exist or may arise which would justify regulatory action in pursuance of any enactment,

This exemption applies to point 2 of your request 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.
- Disclosure of the information would demonstrate how we respond to matters arising within the markets we regulate and would enable regulated firms to better understand why and how we make decisions on regulatory matters.
- Disclosure would also provide the public with information to assist them in making decisions about their dealings, or potential dealings, with the markets and firms that are operating in the financial services sector.

Against disclosure

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible. Disclosure of the information could prejudice our ability to do this as it may cause firms to act in a way that circumvents our regulatory process/es.
- Disclosure of the information could lead to further speculation which, in the absence of any further background information, could be taken out of context and could lead to the wrong conclusions being drawn in respect of our decision-making processes.
- Disclosure could also affect the brand and reputation of the relevant markets and/or entities in the absence of due process having been followed – i.e. in the absence of any formal public announcement and without the relevant markets and/or entities having had the opportunity to comment.

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