

Annex B:

• General right of access to information held by public authorities

Anyone making a request for information to a public authority is entitled to be told in writing by the public authority whether it holds the information the request describes. If the public authority does hold this information, the person requesting it has the right to have the information communicated to them. These rights, in section 1(1)(a) and (b) of FOIA, have some exclusions and exemptions.

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(g) of FOIA applies to this request because disclosure of some of the information requested would be likely to prejudice the exercise by the FCA of its functions for the following purposes:

- the purpose of ascertaining whether any person has failed to comply with the law,
- the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

This exemption applies because disclosure of the granular details of our Whistleblowing Teams internal processes would be likely to prejudice its ability to perform its functions in the most effective manner.

The harm to our function of 'ascertaining' or monitoring compliance with our regulatory requirements would be likely to occur over time.

Since section 31 is a 'qualified exemption', we have considered relevant factors in favour and against disclosing the information, as required by FOIA.

Arguments in favour of disclosure:

- There is a strong public interest in favour of transparency and in the public being reassured about the effectiveness of the FCA's approach.
- Disclosing the information would demonstrate how we have improved our Whistleblowing procedures. It would also enable stakeholders (including regulated firms) to better understand why and how we make decisions on regulatory matters arising from Whistleblowing.

Arguments against disclosure:

- Disclosure of the information you are seeking could prejudice the FCA ability to carry out its functions in the most effective manner possible, as it would reveal the

details of the strategies and tactics used in our supervision of the firms we regulate. This could affect the way that the FCA interacts with firms, as it may cause some firms and individuals to act in a way that circumvents our regulatory processes.

- Disclosing the information could lead to further speculation which, without any further background, could be taken out of context and could lead to the wrong conclusions being drawn about our decision-making processes.

On the facts of this particular request, we have concluded that the balance of the public interest is in favour of applying the exemption under section 31 of FOIA for these reasons.