

Telephone: 0207 066 8080
Email: foi@fca.org.uk

Via Email

05 March 2015

Our Ref: FOI3888

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) How many new whistleblowing reports were received by the FSA/FCA in each of the following calendar years 2014, 2013, 2012.

2) How many new intelligence reports were created by the FSA/FCA as a result of whistleblowing reports in each of the following calendar years 2014, 2013, 2012.

3) How many new investigations were opened by the FSA/FCA as a result of whistleblowing reports in each of the following calendar years 2014, 2013, 2012.'

Where you state "whistleblowing" and "intelligence reports", we have interpreted your request to be for whistleblowing cases and intelligence logs.

Your request has now been considered. Each point has been numbered, and will be answered in turn.

In regard to point 1, the number of whistleblowing cases raised for the specified years was:

| 2012 | 2013 | 2014 |
|-------------|-------------|-------------|
| 565 | 948 | 1367 |

In relation to point 2, the number of intelligence logs created in 2013 and 2014 as a result of whistleblowing cases was:

| 2013 | 2014 |
|-------------|-------------|
| 868 | 1003 |

However for 2012, due to changes in the whistleblowing recording process and the introduction of a new intelligence management system, it has not been possible to conduct accurate searches to isolate whistleblowing related intelligence logs.

To ascertain the number of whistleblowing intelligence logs created in 2012, we would have to review every single intelligence log created for the year by all intelligence management system users (factoring in both intelligence management systems used

during the course of the year), this would exceed the cost limit provided in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. For a detailed explanation as to why this exemption applies, please also refer to the Annex.

Further, to answer point 3 of your request, we would need to undertake a manual review of the records of each investigation to see if they were based on whistleblowing intelligence or whistleblowing intelligence was contributory. Therefore in order to process this part of your request, this would also exceed the cost limit provided for in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

To assist your understanding of our whistleblowing process, and the reasons why we cannot provide the exact information sought, we have provided additional context in the attached Annex.

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

- **Section 12 (Cost of compliance exceeds appropriate limit)**

The Act requires us to comply with a request, unless it would be too expensive to do so, as estimated in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 made by the Department of Constitutional Affairs (now Ministry of Justice). The regulations provide that, for the FCA, the cost limit is £450, i.e. 18 hours at the rate of £25 per person hour. The regulations allow us to take into account when estimating the cost of complying with a request the time spent determining whether we hold the information requested, locating and retrieving it, and extracting the information from the relevant document(s).

As explained above, the information is not recorded or held in a readily extractable format.

For part 2 of your request, 7,970 intelligence logs were created from 26/03/2012 – 31/12/2012. 26/03/2012 is the implementation date of the intelligence management system referred to above. Each intelligence log would have to be manually accessed, to see whether it was created as a result of a whistleblowing

case. Even with an instantaneous review of each record, which would involve a thirty second review of each intelligence log to determine if the material relates to a whistleblowing case, it would take us over the cost limit.

In regards to point 3 of your request, in 2012, 2013 and 2014 the FSA/FCA opened 322 Enforcement case investigations. It would take around 5 minutes to examine each case file to establish whether there is any links to whistleblowing intelligence.

To answer your request in full would take well in excess of 18 hours. On that basis, the cost of retrieving the information you have requested in full would far exceed the £450 limit.

As our policy is not to divert our resources from our regulatory functions in order to meet requests under the Act in excess of the cost limit, we will not carry out an exercise to identify the information you have requested.

The FCA's Whistleblowing process

The FCA receives whistleblowing disclosures under The Public Interest Disclosure Act 1998 and from anybody who wants to provide information about wrongdoing, in terms of regulated activity, but who seeks anonymity or confidentiality. A whistleblowing case is opened each time a whistleblower contacts us with information that falls within this category.

Intelligence derived from whistleblowing cases is initially managed and researched by the Whistleblowing Team. It is then disseminated to the FCA team responsible for supervising the firm or individual alleged to have been involved in wrongdoing. The Supervision team reviews the intelligence, assess other information the FCA already holds and determines whether further action is required using a risk based approach. The FCA has a variety of regulatory powers available to achieve outcomes that protect consumers and ensure markets work well without the need to refer cases to our Enforcement teams for investigation.

In a small number of cases our Supervision teams do refer cases for Enforcement investigation but it is rare that a single piece of intelligence from a whistleblower will lead, on its own, to an Enforcement investigation or action. Intelligence from whistleblowers may assist the progress of investigations, provide investigators with lines of enquiry and support or corroborate other intelligence.

We store all information received from whistleblowers securely so we can look into it again if circumstances change. We also share it with the FCA team that oversees emerging risks. Enforcement teams are able to review this information if it becomes relevant to an investigation at any time.

Should an Enforcement investigation already be open at the time whistleblowing intelligence is received, relating to the investigation or the firm or individual involved, it is disseminated to the relevant team.

In September 2013 we introduced a feedback process designed to capture the value of every piece of whistleblowing intelligence received by the FCA. FCA recipients of whistleblowing intelligence are required to grade the intelligence using one of four categories - which were designed to manage the difficulties in purely relying on enforcement outcomes as being the only worthwhile measure of value. In line with the time period the request covers the below breakdown represents feedback from internal

recipients of whistleblowing intelligence logs stemming from whistleblowing cases raised 01/09/2013 – 31/12/2014.

- Intelligence directly contributed to FCA enforcement activity or the protection of consumers through other intervention – 18
- Intelligence was of significant value to the FCA and contributed to the discharge of its functions – 145
- Intelligence was, or may be, of value to the FCA but is not currently actionable or does not meet current regulatory risk thresholds – 504
- Intelligence was of little value and is unlikely to assist the FCA in the discharge of its functions – 173

The FCA does not indicate, when making public announcements, that whistleblowing intelligence assisted in bringing the case to conclusion. To do so would potentially lead to the identification of a whistleblower, particularly in relation to smaller firms with fewer employees.