

Email: foi@fca.org.uk

(By email)

12 October 2018

Our Ref: FOI5893

Dear

Freedom of Information: Right to know request

We refer to your request under the Freedom of Information Act 2000 ("the Act") for the following information relating to the FCA's supervision of high-risk investments, as detailed on page 66 of the recently released 2017/18 [Annual Report](#).

Full details of your request can be found in Annex A below.

When we wrote to you on 17 August 2018, we explained that we needed more time to consider your request. Having now done so, we are of the view that the qualified exemption at section 31 (law enforcement) of the Act applies to the information requested at point 1. Further details are provided below.

We are able to provide you with the remainder of the information and we will address each point in turn.

1. A copy of the request sent to firms regarding their high-risk investment activity.

As explained above, we are unable to provide this to you as 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, this information is exempt from disclosure under section 31 (Law enforcement) of the Act. We have considered the public interest arguments for and against disclosure but, for the reasons set out in Annex B, we have determined that the public interest is in maintaining the exemption.

2. A breakdown of the type of firms included in the sample of 152 (i.e the number of financial advisers, fund managers, platforms etc that were included).

All the firms were financial advisor retail investment firms.

3. In an aggregated or anonymised format, the responses to the request.

Data returned:

	Requests returned
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	Volume	Percentage
Nil return	88	58
Data return	64	42

Data by product:

	Number of firms	Volume	Percentage
UCIS	9	151	13%
HRI products to minimise tax liability	61	1,848	87%

Note: % based on 64 firms with data returned. Some firms have products in multiple sections hence firm total is 70.

Analysis by product:

	Volume	Percentage
UCIS	151	8%
HRI products to minimise tax liability	1,848	92%

4. In an aggregated or anonymised format, details of any enforcement or further supervision activities (e.g Section 166 reviews) that were conducted on the basis of the results provided.

We have sent further information requests to two firms. We have also conducted file reviews and sent a feedback letter to one firm.

5. Details of any future supervision works (e.g market studies, thematic reviews, further data requests) that have been scheduled by the FCA based on the results provided.

Details of any future work are outlined in the FCA's 2018/19 Business Plan which can be found on our website [here](#) (see particularly page 46 and 47).

Yours sincerely

Information Disclosure Team
Financial Conduct Authority

[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

"I am seeking further information regarding the FCA's supervision of high-risk investments, as detailed on page 66 of the recently released 2017/18 Annual Report.

The report reads: "We requested details on the high-risk investment activity of 152 firms and analysed their responses. This work also assessed what product disclosures firms provided to consumers before investment. We will continue this work in 2018 and use the results to shape our future supervision activity for these types of investments."

Please provide the following information:

- 1. A copy of the request sent to firms regarding their high-risk investment activity.*
- 2. A breakdown of the type of firms included in the sample of 152 (i.e the number of financial advisers, fund managers, platforms etc that were included).*
- 3. In an aggregated or anonymised format, the responses to the request.*
- 4. In an aggregated or anonymised format, details of any enforcement or further supervision activities (e.g Section 166 reviews) that were conducted on the basis of the results provided.*
- 5. Details of any future supervision works (e.g market studies, thematic reviews, further data requests) that have been scheduled by the FCA based on the results provided."*

Annex B

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(g) and 31(2)(c) 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.

This exemption applies to your request as disclosure would, or would be likely to, harm our function of "ascertaining" or monitoring compliance with our regulatory requirements over time (as opposed to during an ongoing investigation). 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 our regulatory approach.

- Disclosure of the information would demonstrate how we respond to matters arising within the sector we regulate and would enable regulated firms and their senior management to better understand why and how we make decisions on regulatory matters.
- This, in turn, will facilitate comments on the FCA's regulatory and supervisory approach.

Against disclosure

- Should the information be disclosed, it could lead to speculation on the focus of our work and, in the absence of any further background, the information could be taken out of context.
- Disclosure is also likely to affect the way that we interact with firms which would, or would be likely to, prejudice future thematic work of this nature.

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.