

(By email)

27th November 2018

Our Ref: FOI6082

Dear

Freedom of Information: Right to know request

Thank you for your request under the Freedom of Information Act 2000 ("the Act") dated 30 October 2018 for the following information:

1. *How many whistle blower reports have been received so far in 2018?*
2. *What is the company that is the subject of the whistle blower report?*
3. *What cryptocurrencies are associated with each whistle blower report?*

Your request has now been considered. Please note that we have numbered your questions for ease of reference.

In respect of question 1, as at 12 November 2018, we had received 1000 whistleblowing disclosures.

In relation to questions 2 and 3, we are unable to provide you with the requested information. The information relates to the business affairs of the relevant firms which was received by the FCA in the discharge of its functions under the Financial Services and Markets Act 2000 ("FSMA"). Disclosure of the information would therefore result in the disclosure of confidential information for the purposes of section 348 of FSMA. As a result, we are prohibited from disclosing the information you are seeking under section 44 (Prohibitions on disclosure) of the Act.

We are also unable to disclose this information to you as disclosure would, or would be likely to, prejudice the exercise by the FCA of its functions for the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise. Therefore, the information you have requested is exempt from disclosure under section 31 (Law enforcement) of the Act.

For a detailed explanation, as to why these exemptions apply, please refer to Annex A below.

Yours sincerely

Information Disclosure Team



Annex A:

• **General right of access to information held by public authorities**

Under section 1(1)(a) of the Act, any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request. If the public authority

holds information of the type specified in the request, the person requesting the information is entitled under section 1(1)(b) to have the information communicated to them. The rights in section 1(1)(a) and (b) are, however, subject to a number of exclusions and exemptions, including the following:

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 ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

This exemption is qualified and we have balanced the public interest for and against disclosure as required by the Act.

Factors 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 markets we regulate and would enable the public and regulated firms to better understand why and how we make decisions on regulatory matters.

Factors against disclosure:

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible and disclosure of the information could both lead to attempts to identify the whistle-blowers as well as deter future whistle-blowers coming forward. This could seriously undermine the FCA's ability to carry out the relevant regulatory functions.

We consider that the balance of the public interest is in favour of maintaining the exemption (that applies to question 4) under section 31 of the Act for the reasons set out above.

- **Section 44 (Prohibitions on disclosure)**

Section 44(1)(a) of the Act provides that information is absolutely exempt if its disclosure (otherwise than under the Act) is prohibited by or under any enactment. Section 348 of FSMA restricts the FCA from disclosing "confidential information" it has received except in certain limited circumstances (none of which apply here).

Confidential information for these purposes is defined as information which relates to the business or other affairs of any person and which was received by the FCA for the purposes of or in the discharge of its functions under FSMA and which is not in the public domain.

In this case, the information obtained from whistle-blowers relates to the business affairs of the relevant firms concerned, and was received by the FCA for the purpose of carrying out its regulatory functions, so falls within section 348 of FSMA. Consequently, the FCA is prohibited from disclosing it to you.

Disclosure of any such confidential information is in breach of section 348 of FSMA and is a criminal offence.