

Email: foifca.org.uk

20 November 2019

Our Ref: FOI6825

Freedom of Information: Right to know request

Thank you for your request dated 10 October 2019 under the Freedom of Information Act 2000 (the Act), for information about criminal prosecutions under Money Laundering Regulations 2007 (MLR 2007), the Money Laundering Regulations 2017 (MLR 2017), and under sections 330 and 331 of the Proceeds of Crime Act 2002 (POCA) (collectively the regulated offences). Please refer to Annex A for full details of your request.

Your request has now been considered and our response is outlined below. We apologise for the delay in responding to you.

In respect of points 1 to 4, the FCA has not prosecuted anyone under the MLRs nor under sections 330 and 331 of the Proceeds of Crime Act 2002 (POCA) (collectively the 'regulated offences'), so we do not hold any information that falls within the scope of this part of your request.

For point 5, we can confirm that we do not hold any relevant guidance (either internal or otherwise). However, you may wish to refer to our mission statement, Mark Steward's recent speech [here](#) on MLR's and the [2017/18 Business Plan](#) which sets out some information in connection to the FCA's approach to the MLRs.

For point 6, the below table sets out the number of ongoing live single or dual track investigations the FCA is currently undertaking which involve a potential or alleged criminal breach of the MLR 2007:

Subtype	Number
Criminal	4
Dual - track	12

The below tables set out the regulation(s) being investigated over a criminal breach of MLR 2007 (** see key further down for a description of each regulation):

MLR 2007	Number
Reg 7	11
Reg 8	10
Reg 14	10

Reg 19	4
Reg 20	9
Reg 21	3
Reg 45	3
Reg 47	4
Reg 11	1

MLR 2017	Number
Reg 18	1
Reg 19	3
Reg 21	1
Reg 24	3
Reg 27	2
Reg 28	3
Reg 31	1
Reg 33	3
Reg 35	1
Reg 40	1
Reg 86	1
Reg 92	4

**** Key:**

MLR 2007	Description
Reg 7	Application of customer due Diligence measures
Reg 8	Ongoing monitoring
Reg 14	Enhanced customer due diligence and ongoing monitoring
Reg 19	Record-keeping
Reg 20	Policies and procedures
Reg 21	Training
Reg 45	Offences
Reg 47	Offences by bodies corporate etc.

MLR 2017	Description
Reg 18	Risk assessment by relevant persons
Reg 19	Policies, controls and procedures
Reg 21	Internal controls
Reg 24	Training
Reg 27	Customer due diligence
Reg 28	Customer due diligence measures
Reg 31	Requirement to cease transactions etc
Reg 33	Obligation to apply enhanced customer due diligence
Reg 35	Enhanced customer due diligence; politically exposed persona
Reg 40	Record-keeping
Reg 86	Criminal Offence
Reg 92	Offence by bodies corporate, partnership or unincorporated association

We hold no record of any ongoing investigations into criminal breaches of the MLR 2017.

For point 7, the below table sets out the number of previous investigations into criminal breaches of the MLR 2007 which are now closed and, as a result, have been discontinued:

MLR 2007	Number
Reg 7	11
Reg 8	12
Reg 11	2
Reg 14	12
Reg 20	11
Reg 21	4
Reg 45	2
Reg 47	1

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 the Information Disclosure Team 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

Request dated 10 October 2019 (please note we have numbered your request for ease of reference in our response):

"With regard to criminal offences under Regulation 45 and 46 the MLR 2007, I was provided [by the MoJ] with the following information in relation to proceedings instituted:

Convicted or Acquitted	Act/Section	Court centre	Determination date
Convicted	Proceeds of Crime Act 2002 - S330 - Failure to disclose; another person involved in money laundering - regulated sector	Southwark Crown Court	04/02/2013
		Woolwich Crown Court	26/07/2013
		Burnley Crown Court	24/07/2013
		Central Criminal Court	06/12/2013

		Central Criminal Court	06/12/2013
		Central Criminal Court	06/12/2013
		Southwark Crown Court	10/01/2014
		Isleworth Crown Court	31/01/2014
		Isleworth Crown Court	31/01/2014
		Nottingham Crown Court	24/07/2014
		Leeds Crown Court	16/02/2015
		Leeds District Magistrates' Court	15/04/2015
		Newcastle upon Tyne Crown Court	29/07/2016
		Southwark Crown Court	02/09/2016
		Winchester Crown Court	17/10/2016
		Manchester Crown Court (Crown Square)	24/10/2017
	Proceeds of Crime Act 2002 - S331 - Failure to disclose; another person involved in money laundering -nominated officers in the regulated sector	Basildon Crown Court	22/04/2013
		Manchester Crown Court (Crown Square)	06/11/2015
		Isleworth Crown Court	06/01/2016
		Isleworth Crown Court	10/06/2016
	Money Laundering Regulations 2007 - R.45	Bedfordshire Magistrates' Court	18/03/2013
		Bedfordshire Magistrates' Court	08/04/2013
		Black Country Magistrates' Court	26/09/2014
		Bournemouth Crown Court	25/09/2015
		Leeds Crown Court	27/01/2016
		Newcastle upon Tyne Crown Court	21/04/2016
		Luton Crown Court	03/06/2016
		Newcastle upon Tyne Crown Court	22/06/2016
		Central London Magistrates' Court	04/10/2016
		Newcastle upon Tyne Crown Court	17/03/2017
		Southwark Crown Court	20/03/2017
		Leicester and Rutland Magistrates' Court	18/12/2017
Acquitted		Proceeds of Crime Act 2002 - S330 - Failure to disclose; another person involved in money laundering - regulated sector	Nottinghamshire Magistrates' Court
	Central Criminal Court		22/07/2016
	Chester Crown Court		17/02/2017
	Central London Magistrates' Court		26/05/2017
	Money Laundering Regulations 2007 - R.45	Bedfordshire Magistrates' Court	18/03/2013
		Luton Crown Court	20/04/2016
		Kingston-upon-Hull Crown Court	16/05/2017

I have set out the information above in order to assist you in providing me with a response to the following questions:

- 1. Which of these prosecutions were instituted by the FCA?*
- 2. For each individual prosecution please specify the offence proceeded against (i.e. whether Regulation 45 or 46 MLR 2007; section 330 POCA; or section 331 POCA)*
- 3. For each individual prosecution under MLR 2007 please indicate which type of regulated business under Regulation 5 was prosecuted*
- 4. For each prosecution for any of these offences brought by the FCA please could you provide the following details:*
 - o The name of prosecution counsel;*
 - o The name of the Judge who heard the case;*
 - o A case summary/MG5 (or equivalent);*
 - o A charge sheet;*
 - o The outcome (whether the prosecution resulted in conviction or not; guilty plea or finding of guilt; and disposal);*
 - o For prosecutions which ended in conviction, a copy of the Judge's sentencing remarks or a note of the same;*
 - o For prosecutions which ended in acquittal, the reasons for acquittal (i.e. not guilty verdict/prosecution offer no evidence; and*
 - o Any press release originating with the FCA, or any press articles you are aware of, which was created before, during or after the proceedings.*

If you consider it necessary I am content for the above material to be redacted for sensitive data (e.g. defendant's name and other identifying details).

- 5. Please could you also confirm whether the FCA has prepared any guidance (internal or otherwise) in respect of the prosecution of any of these regulated criminal offences? In particular, I note that breaches of the MLR 2007 and MLR 2017 can be dealt with using either the civil or the criminal powers available under those regulations. I am interested to understand how the FCA reaches a view as to what conduct will be considered so serious that it should be treated as a potential criminal offence, rather than investigated in a civil enforcement context. I therefore request the disclosure of any such guidance which provides assistance to the FCA in determining the appropriate form of investigation (civil or criminal).*
- 6. Finally, please could you confirm how many ongoing live single or dual track investigations the FCA is currently investigating which involve a potential or alleged criminal breach of the MLR 2017 and/or MLR 2007. For each investigation please indicate which individual regulation or regulations are being investigated as criminal breaches (for example 'Regulation 24 - Training, MLR 2017' or 'Regulation 33 - EDD, MLR 2017' etc).*
- 7. Please also provide separate figures for previous investigations into criminal breaches of the MLR 2017 and/or 2007 which have been discontinued."*