

14 May 2020

Our Ref: FOI7139

Freedom of Information: Right to know request

Thank you for your further Freedom of Information request of 24 February 2020, for information relating to FCA's enforcement actions.

You asked us:

- 1. How many enforcement final notices were served on "approved persons" within asset management in 2019?
 - a. What was the value of fines issued on these?**
- 2. How many enforcement final notices were served on "approved persons" within asset management in 2018?
 - a. What was the value of fines issued on these?**
- 3. How many investigations of Senior Managers within asset management has the FCA opened since 9 December 2019?*
- 4. How many investigations of Certification staff within asset management has the FCA opened since 9 December 2019?"*

In our previous correspondence, we advised we needed more time to consider whether the balance of public interest in the retention of information outweighed the public interest in its disclosure. We have now completed this exercise and the outcome is detailed below.

Question 1:

A total of three final notices were issued in relation to persons approved to carry on asset management regulated activities during 2019.

- a.** The total value of the fines issued in relation in relation to the three final notices referred to was £79,272,987.

Question 2:

No final notices were issued in relation to persons approved to carry on any asset management activities during 2018.

- a. not applicable

Question 3 and 4:

We are exempted from disclosing the information relating to these points under section 31 (Law enforcement) of FOIA. This is because making this information public would be likely to prejudice the exercise by the FCA of its functions for certain purposes (set out below).

For a detailed explanation on why these exemptions apply, please see Annex A below.

The FCA has a policy of not commenting publicly on whether or not it is investigating a particular firm/individual. This policy is set out in the FCA's Enforcement Guide (EG); see in particular [EG 6](#) on Publicity.

In the event that the FCA is investigating a particular individual/entity and formal enforcement action is subsequently taken, details of the outcome of the action will almost always be published on the FCA's website in the form of a Final Notice and associated press announcement. This serves to inform the public of the action taken and the reasons for that action.

You can obtain further information regarding enforcement action from the following places:

- Information about those cases where we have taken disciplinary action against individuals or firms from April 2013 may be found on the FCA's website [here](#).
- Information about those cases where we have taken disciplinary action against individuals or firms prior to April 2013 can still be found on the FSA's website [here](#).

The [website of the Upper Tribunal](#) provides information about the cases where our decision to take enforcement action has been referred to the Tribunal.

Your right to complain under FOIA

If you are unhappy with this response, you have the right to request an internal review. If you wish to exercise this right you should contact us 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, by phone or on their website at:

Telephone: 0303 123 1113

Website: www.ico.org.uk

Yours sincerely

Information Disclosure Team

Annex A:

General right of access to information held by public authorities

Anyone requesting information from a public authority is entitled to be informed in writing whether it holds the information described (this is under section 1(1)(a) of FOIA). If the public authority does hold it, the person requesting it is entitled to have the information communicated to them, under section 1(1)(b). However, there are exclusions and exemptions to these rights.

- **Section 31 (Law enforcement)**

The qualified exemption in section 31(1)(g) of FOIA applies to this request because disclosure of the information requested would, or 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 if we disclosed the information now, it would, or would be likely to, prejudice any such investigations or actions. It would also be likely to compromise our ability to obtain information from other agencies, which would be likely to prejudice to our ability to carry out investigations.

As this exemption is subject to the public interest test, we have considered relevant factors in favour, and against, disclosing information as required by FOIA.

For 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 respond to matters arising in the markets we regulate. It would also enable stakeholders (including regulated firms) to better understand why and how we make decisions on regulatory matters.
- Disclosure would also provide the public with information to help them in making decisions about their dealings, or potential dealings, with the markets and firms that are operating in the financial services sector.

Against disclosure

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible. Disclosure of the information

relating to points 3 and 4 of your request could prejudice our ability to do this, as it may cause firms to act in a way that circumvents our regulatory processes.

- Disclosing the information could lead to speculation which, without any further context, would be likely to be taken out of context and lead to the wrong conclusions being drawn about our decision-making processes.
- Disclosure would be likely to adversely affect the brand and reputation of the relevant markets and/or entities without due process having been followed – i.e. without any formal public announcement and without the relevant markets and/or entities having had the opportunity to comment.

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.