

28 October 2020
Our Ref: FOI7680

Thank you for your email of 30 September 2020, in which you asked for information about Suspicious Activity Reports (SARs) submitted to the National Crime Agency (NCA).

We are handling your email as a request for information under the Freedom of Information Act 2000 (FOIA) and have answered each question in turn.

1. Details of the number of SARs sent by the FCA to NCA during 2019?

We submitted 148 SARs during the calendar year 2019.

3. A copy of any internal guidance the FCA has for its staff on the submission of SARs to the NCA

We hold the information you requested, but we are exempted from disclosing it to you because we are of the view that disclosure of the details would be likely to prejudice both the prevention or detection of crime and the exercise by the FCA of its functions for certain purposes. Therefore, we consider that section 31 (law enforcement) of the Act applies. A detailed explanation as to why this exemption applies can be found in Annex A.

Also, some of the information you requested contains personal data, therefore we are exempted from disclosing that information under section 40 (personal data) of FOIA. This is because disclosing this information would reveal personal information about the individuals concerned. For more information on why we are applying this exemption please see Annex A.

Your right to complain under FOIA

If you are unhappy with this response, you have the right to request an internal review. To do so, please contact us within 40 working days of the date of this response at FreedomofInformationAppeals@fca.org.uk.

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:

Website: www.ico.org.uk

Yours sincerely,

Information Disclosure Team

Annex A

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(a), 31(1)(g) and 31(2)(a) of the Act applies because, disclosure of the information requested would, or would be likely to, prejudice:

- The prevention or detection of crime
- The exercise by the FCA of its functions for the purposes of ascertaining whether any person has failed to comply with the law

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. 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 the regulatory approach taken by the FCA. Disclosure of the information would demonstrate how the FCA responds to matters arising within the sector it regulates.
- Disclosure of the information would increase public awareness and understanding of decisions taken by the FCA.

Against disclosure

- We consider that disclosure of the information would reveal the details of the strategies and tactics used in our supervision of the firms we regulate. The information would reveal our approach to reporting to the NCA, which may lead firms to adapt their behaviour to avoid the submission of SARs, which would negatively impact the detection of crime. This would also affect the way that the FCA interacts with firms, and ongoing and future investigations would be likely to be prejudiced.
- 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 would be likely to prejudice our ability to do this, as it would give firms the ability to act in a way that circumvents our regulatory processes, as they will be aware of how and why we report SARs.
- Disclosure of this information would be likely to lead to speculation which, in the absence of any further background information, would be likely to be taken out of context and lead to the wrong conclusions being drawn in respect of our decision-making processes.

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.

- **Section 40 (Personal Information)**

To the extent that the information that we hold contains personal data about individuals, section 40(2)(b) of the Act provides that *"[a]ny information to which a request for information relates is also exempt information if the first, second or third condition listed below is satisfied."*

We have applied this exemption because the first condition (as stated in section 40(3A) of FOIA) is satisfied. Some of the information you have requested comprises the personal data of individuals other than yourself which, if disclosed, would breach the requirement of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ("GDPR") including the data protection principles of Article 5 and the Data Protection Act 2018 ("DPA")

In particular, it would be a breach of the first data protection Principle as set out in Article 5 of the GDPR, to disclose such information, as it would not be necessary or fair to the individuals concerned, or lawful, where none of the conditions in Article 6(1) of the GDPR have been met. The individual(s) concerned have not given their consent for their personal details to be made public and the release of such information may be detrimental to the individuals themselves.

This is an "absolute" exemption, and so it is not necessary to balance the public interest for and against disclosing the information.