

Date: 8 March 2021

Our Ref: FOI8025

Dear

Freedom of Information: Right to know request

Thank you for your email of 8 February 2021, in which you asked about cannabis-related businesses. Full details of your request can be found in Annex A.

We have processed your email in line with the provisions of the Freedom of Information Act 2000 (FOIA) and we have responded to each point in turn. The questions have been numbered for ease of reference.

1. *The FCA says the [note](#) was produced "in response to queries from cannabis-related companies interested in listing in the UK". How many such queries has the FCA received, by month, since medical cannabis was legalised in the UK in 2018.*

Please note that the FCA has only received queries from companies where the activities relate to cannabidiol [CBD] and/or cannabis-based products for medicinal purposes. The table below shows the number of queries received.

Month	Number of queries
December 2018	1
June 2019	1
August 2019	1
October 2019	1
December 2019	2
December 2020	1
Total	7

2. *How many cannabis companies has the FCA admitted to the Official List and how many has it rejected over the same period.*

Two companies have had their prospectuses approved (which are publicly available) and have been admitted to the Official List.

- [MGC Pharmaceuticals – admitted to listing 9 February 2021](#)
- [Spinnaker Opportunities plc \(renamed Kanabo plc\) – admitted to listing 16 February 2021](#)

No companies have been rejected as no formal application for listing has been made which has been refused. The decision notice for any application for listing that had been rejected would be made public in accordance with normal FCA procedures for decision notices.

3. How many recreational cannabis companies has the FCA deemed to be in potential breach of the Proceeds of Crime Act.

We do not hold any relevant information. The FCA does not have responsibility under the Financial Services and Markets Act 2000 (FSMA) for investigating and prosecuting money laundering offences under Proceeds of Crime Act (POCA). Money laundering offences are usually investigated by the National Crime Agency (NCA), the police, or Her Majesty's Revenue and Customs (HMRC).

Therefore, the FCA cannot deem a company to be in potential breach of POCA. Please also note our response to question 2 above where we stated that no cannabis-related companies have had an application for listing rejected.

4. Please provide copies of any internal research notes, presentations or similar that may be relied on by the FCA to assess cannabis companies.

We hold the information you requested but we are exempted from disclosing it under section 31 (Law enforcement) of FOIA, as disclosure of this information would, or would be likely to, prejudice our functions under FSMA. This exemption applies in this instance 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).

Section 31 is a qualified exemption, and therefore, in assessing where the balance of the public interest lies in making this information public, we have considered the arguments for and against disclosure. For more information on this, please refer to the below Annex B.

In addition, some of the information requested is confidential information that the FCA has received in the course of carrying out its public function under section 348 of FSMA. We are, therefore, prohibited from disclosing it to you under section 44 (Prohibitions on disclosure) of FOIA.

Furthermore, some of the information we hold contains legal advice we received, and we are exempt from the duty to disclose it under section 42 (legal professional privilege) of FOIA. This is because its disclosure would be a breach of legal professional privilege.

For more information on why these exemptions apply, please refer to annex B below.

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:

Telephone: 0303 123 1113

Website: www.ico.org.uk

Yours sincerely

Information Disclosure Team
Financial Conduct Authority

Annex A:

I am writing to request further information on listings of cannabis-related business in the UK, on which the [FCA published a note in September](#).

Please provide the following information:

- The FCA says the note was produced "in response to queries from cannabis-related companies interested in listing in the UK". How many such queries has the FCA received, by month, since medical cannabis was legalised in the UK in 2018.
- How many cannabis companies has the FCA admitted to the Official List and how many has it rejected over the same period.
- How many recreational cannabis companies has the FCA deemed to be in potential breach of the Proceeds of Crime Act.
- Please provide copies of any internal research notes, presentations or similar that may be relied on by the FCA to assess cannabis companies.

Annex B:

General right of access to information held by public authorities

Anyone making a request for information to a public authority is entitled to be told in writing by the public authority whether it holds the information the request describes. If the public authority does hold this information, the person requesting it has the right to have the information communicated to them. These rights, in section 1(1)(a) and (b) of FOIA, have some exclusions and exemptions.

• Section 31 (Law enforcement)

The qualified exemption in section 31(1)(g) of FOIA applies to question 4 of 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.

In this instance, the harm to our function of “ascertaining” or monitoring compliance with our regulatory requirements would be likely to occur over time (as opposed to during an ongoing investigation).

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.
- Disclosure would also provide information to consumers to assist them in making decisions about their dealings or potential dealings with the firms, the FOS and individuals that are, or may be, operating in the financial services industry.

Against disclosure

- Disclosing the information could lead to further speculation which, without any further background information, would be likely to be taken out of context and lead to the wrong conclusions being drawn about our decision-making processes.
- Disclosure of the information you are seeking could prejudice the FCA ability to carry out its functions in the most effective manner possible, as it would reveal the details of the strategies and tactics used in our supervision of the firms we regulate. This could affect the way that the FCA interacts with firms, as it may cause some firms and individuals to act in a way that circumvents our regulatory processes.

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 the Act, for these reasons.

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

Section 44(1)(a) of FOIA states that information is absolutely exempt from disclosure if this is prohibited by law. Section 348 of FSMA restricts the FCA from disclosing ‘confidential information’ it has received in the course of carrying out its public function. FSMA allows exceptions to this in a few specific circumstances, but none of these apply to this request.

Confidential information here is defined as non-public and non-anonymised information involving a person’s business or other affairs, which the FCA received in the course of carrying out its public function.

The information you requested at question 4 is confidential information under this provision. If we disclosed this information, without the provider’s consent and the consent of the person the information is about, we would be in breach of section 348 of FSMA. This would be a criminal offence.

In many requests for information under FOIA we have to judge different factors to decide whether disclosing the requested information would be in the public interest or not. For

this request, we have an 'absolute' exemption against supplying the information, and so we do not need to make this kind of judgement.

- **Section 42 (Legal professional privilege)**

This section states that information that could be legal professional privilege is exempt. This exemption under FOIA includes advice from lawyers to the FCA, including internal legal advice.

This exemption also has qualifications in favour, and against, disclosing information. We have to balance the public interest for and against disclosure as required by FOIA.

For disclosure

- As part of providing wider transparency about the FCA's work there may be a legitimate public interest in disclosing any legal advice which has been provided.

Against disclosure

- There may be a legitimate public interest in disclosing any legal advice which has been provided. But it is strongly in the public interest for the FCA to be able to have open and candid communications with its lawyers to ensure we seek and receive the best possible legal advice, given without fear or favour. This enables us to carry out our statutory functions lawfully as well as effectively.
- Our ability to seek and receive proper and adequate legal advice, in a free and frank way, would be undermined if our exchanges with its lawyers were made publicly available.
- Disclosing the legal advice would prejudice the FCA's ability to defend our legal interests. This would be both directly, by unfairly exposing our legal position to challenge, and indirectly, by reducing our reliance on legal advice having been fully considered and presented without fear or favour.
- The public interest is generally not served by disclosing material that is covered by legal professional privilege.