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Via Email

15 December 2014

Our Ref: FOI3763

### **Freedom of Information: Right to know request**

Thank you for your request under the Freedom of Information Act 2000 (the Act), for the following information related to whistleblowing:

1. The number of contacts received by the whistleblowing team, for each month from November 2013 to October 2014 inclusive.
2. The number of new cases, in which actionable whistleblowing derived intelligence was disseminated to departments within the FCA and other regulators and law enforcement agencies, for each month from November 2013 to October 2014 inclusive.
3. The number of new cases that have resulted in the imposition of penalties against a company or an individual since November 2013 to October 2014 inclusive, broken down by the month the case was created
4. The number of cases created by subject (e.g. fitness and propriety, market manipulation) for each month from November 2013 to October 2014 inclusive.

Before answering your request it may helpful to note that additional background information about the FCA's whistleblowing process can be found in the Annex B attached. Turning to your request, each point has been renumbered, and will be answered in turn.

In regard to point 1, 10,287 contacts were received during the period between November 2013 and October 2014. A more accurate reflection of the number of whistleblowing reports made to the FCA is in the number of cases opened (1368). An explanation of these figures can be found in Annex A.

Our response to point 2 can be found in the Annex A.

In relation to point 3, we are unable to provide details as to break down the information in the manner requested would require the records for each case in which a penalty was imposed to be manually reviewed to see if they held information falling within scope. To do this would exceed the cost limit provided for in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. For a detailed explanation as to why this exemption applies, please also refer to the Annex A.

In relation to point 4, the number of cases created by the Whistleblowing Team during the period 1<sup>st</sup> November 2013 – 31<sup>st</sup> October 2014 is 1368. Please see Annex A for the monthly breakdown by subject.

Yours sincerely,

Information Access Team

Your right to complain under the FoI Act

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 us within three months 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](http://www.ico.org.uk)

## **Annex A**

### **Point 1**

*'Contacts'* includes all phone-calls, emails and letters received, reviewed and processed by the Whistleblowing Team, including repeat enquiries and those that were deemed to contain no whistleblowing content (i.e. general queries). The *'Contacts'* figure is used as a measurement of activity, for management information purposes, rather than as a method of calculating the number of whistleblowers. *'Case Opened'* represents a new whistleblowing disclosure recorded by the whistleblowing team in line with our whistleblowing policy and legal and regulatory remit.

Incoming correspondence to the Whistleblowing Team which does not relate to a whistleblowing matter but requires the source to be referred to another part of the FCA and/ or external law enforcement/regulatory agency is also recorded as a *'Forwarded Item'*.

The following table displays a month-by-month breakdown of Contacts, Cases Opened and 'Forwarded Items' processed during this period:

	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Tot
<b>Contacts</b>	710	660	701	630	702	853	779	902	983	981	1,144	1,242	10,2
<b>Cases Opened</b>	126	82	114	100	103	109	120	118	150	105	108	133	13
<b>Forwarded Items</b>	50	49	52	67	51	44	53	59	100	93	90	93	80

## Point 2

The figures below are taken from the FCA Intelligence System on which whistleblowing intelligence is stored and represent the number of whistleblowing derived intelligence logs disseminated within the FCA and to other regulators and enforcement agencies through appropriate legal gateways:

### Dissemination Records (broken down monthly):

November	2013	- 124
December	2013	- 97
January	2014	- 102
February	2014	- 117
March	2014	- 103
April	2014	- 114
May	2014	- 116
June	2014	- 161
July	2014	- 146
August	2014	- 141
September	2014	- 132
October	2014	- 149

Total - 1502

The number of disseminations exceeds the number of cases opened for a number of reasons including disseminations to more than one organisation, requests for further dissemination of intelligence created in earlier cases and, to a lesser extent, the time delays between opening cases and disseminating intelligence.

## Point 3

### **Section 12 (Cost of compliance exceeds appropriate limit)**

The Act requires us to comply with a request, unless it would be too expensive to do so, as estimated in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 made by the Department of Constitutional Affairs (now Ministry of Justice). The regulations provide that, for the FCA, the cost limit is £450, i.e. 18 hours at the rate of £25 per person hour. The regulations allow us to take into account when estimating the cost of complying with a request the time spent determining whether we hold the information requested, locating and retrieving it, and extracting the information from the relevant document(s).

As explained above, the information is not recorded or held in a readily extractable format. Therefore, to process your request would require each case in which a penalty was imposed to be manually accessed, to see whether contained information relevant to point 3. This exercise, we believe, would take well in excess of 18 hours. On that basis, we estimate that the cost of retrieving the information you have requested would far exceed the £450 limit.

As our policy is not to divert our resources from our regulatory functions in order to meet requests under the Act in excess of the cost limit, we will not carry out an exercise to identify the information you have requested.

#### Point 4

The Whistleblowing Team create case for each new disclosure received via phone, email, letter or other referral that is considered at the outset to be a PIDA / non-PIDA whistleblowing matter in line with the FCA approach to whistleblowing (<http://www.fca.org.uk/site-info/contact/whistleblowing/guidelines>). The figure for the number of cases raised by the Whistleblowing Team during the period 1<sup>st</sup> November 2013 – 31<sup>st</sup> October 2014 is 1368.

The List of 'Subject' types on the case management system used by the Whistleblowing Team to record cases are; Competition, Consumer credit, Consumer Detriment, Crime, Culture of organisation, Fitness & Propriety, FX-related, Market Activity, Non-regulated products, Other, Pension, Remuneration and Incentivisation, Systems & Controls and Treating Customers Fairly. It should be noted that when a case is logged in our case management system only one primary 'Subject' can be recorded for each case although a case may contain elements of several 'subject types.'

<b>November 2013:</b>	
Total	126
Competition	1
Consumer Detriment	23
Crime	17
Culture of organisation	33
Fitness & Propriety	24
FX-related	1
Non-regulated products	6
Pension	7
Other	6
Systems & Controls	3
Treating customers fairly	5

<b>December 2013:</b>	
Total	82
Consumer Credit	1
Consumer Detriment	14
Crime	11
Culture of organisation	21
Fitness & Propriety	14
Pension	5
Other	5
Systems & Controls	8
Treating customers fairly	3

<b>January 2014:</b>	
Total	114
Competition	1
Consumer Credit	1
Consumer Detriment	24
Crime	17
Culture of organisation	32
Fitness & Propriety	10

FX-related	1
Market Activity	2
Non-regulated products	2
Pension	4
Other	10
Systems & Controls	4
Treating customers fairly	6

<b>February 2014</b>	
Total	100
Consumer Credit	1
Consumer Detriment	19
Crime	9
Culture of organisation	29
Fitness & Propriety	8
Market Activity	4
Non-regulated products	1
Pension	3
Other	7
Remuneration and Incentivisation	6
Systems & Controls	9
Treating customers fairly	4

<b>March 2014:</b>	
Total	103
Consumer Credit	1
Consumer Detriment	12
Crime	11
Culture of organisation	21
Fitness & Propriety	11
FX-related	2
Market Activity	11
Non-regulated products	3
Pension	6
Other	3
Remuneration and Incentivisation	5
Systems & Controls	11
Treating customers fairly	6

<b>April 2014:</b>	
Total	109
Competition	2
Consumer Credit	5
Consumer Detriment	12
Crime	11
Culture of organisation	18
Fitness & Propriety	13
Market Activity	4
Non-regulated products	2
Pension	3

Other	8
Remuneration and Incentivisation	16
Systems & Controls	5
Treating customers fairly	10

<b>May 2014:</b>	
Total	120
Consumer Credit	2
Consumer Detriment	3
Crime	5
Culture of organisation	24
Fitness & Propriety	27
FX-related	3
Market Activity	6
Non-regulated products	8
Pension	3
Other	13
Remuneration and Incentivisation	8
Systems & Controls	9
Treating customers fairly	9

<b>June 2014:</b>	
Total	118
Consumer Credit	9
Consumer Detriment	14
Crime	9
Culture of organisation	15
Fitness & Propriety	19
FX-related	2
Market Activity	5
Non-regulated products	13
Other	2
Pension	4
Remuneration and Incentivisation	6
Systems & Controls	12
Treating customers fairly	8

<b>July 2014:</b>	
Total	150
Consumer Credit	13
Consumer Detriment	32
Crime	13
Culture of organisation	19
Fitness & Propriety	26
FX-related	3
Market Activity	13
Non-regulated products	5
Other	3
Pension	5

Remuneration and Incentivisation	6
Systems & Controls	10
Treating customers fairly	2

<b>August 2014:</b>	
Total	105
Consumer Credit	9
Consumer Detriment	22
Crime	7
Culture of organisation	19
Fitness & Propriety	15
Market Activity	3
Non-regulated products	4
Other	3
Pension	3
Remuneration and Incentivisation	10
Systems & Controls	8
Treating Customers fairly	2

<b>September 2014:</b>	
Total	108
Consumer Credit	6
Consumer Detriment	22
Crime	10
Culture of Organisation	16
Fitness & Propriety	25
FX-related	1
Market Activity	5
Non-regulated Products	5
Other	6
Pension	1
Remuneration and Incentivisation	3
Systems & Controls	7
Treating Customers Fairly	1

<b>October 2014:</b>	
Total	133
Competition	1
Consumer Credit	8
Consumer Detriment	20
Crime	11
Culture of Organisation	14
Fitness & Propriety	19
FX-Related	3
Market Activity	6
Non-regulated Products	8
Other	13
Pension	2



Remuneration and Incentivisation	7
Systems & Controls	11
Treating Customers Fairly	10

## **Annex B**

### **The FCA's whistleblowing process**

The FCA receives whistleblowing disclosures under The Public Interest Disclosure Act 1998 from anybody who wants to provide information about wrongdoing, in terms of regulated activity, but who seeks anonymity or confidentiality. A whistleblowing case is opened each time a whistleblower contacts us with information that falls within this category.

Intelligence derived from whistleblowing cases is initially managed and researched by the whistleblowing team. It is then disseminated to the FCA team responsible for supervising the firm or individual alleged to have been involved in wrongdoing. The Supervision team reviews the intelligence, assess other information the FCA already holds and determines whether further action is required using a risk based approach. The FCA has a variety of regulatory powers available to achieve outcomes that protect consumers and ensure markets work well without the need to refer cases to our Enforcement teams for investigation.

In a small number of cases our Supervision teams do refer cases for Enforcement investigation but it is rare that a single piece of intelligence from a whistleblower will lead, on its own, to an Enforcement investigation or action. Intelligence from whistleblowers may assist the progress of investigations, provide investigators with lines of enquiry and support or corroborate other intelligence.

We store all information received from whistleblowers securely so we can look into it again if circumstances change. We also share it with the FCA team that oversees emerging risks. Enforcement teams are able to review this information if it becomes relevant to an investigation at any time.

Should an Enforcement investigation already be open at the time whistleblowing intelligence is received, relating to the investigation or the firm or individual involved, it is disseminated to the relevant team.

In September 2013 we introduced a feedback process designed to capture the value of every piece of whistleblowing intelligence received by the FCA. FCA recipients of whistleblowing intelligence are required to grade the intelligence using one of four categories - which were designed to manage the difficulties in purely relying on enforcement outcomes as being the only worthwhile measure of value.

Between 1 September 2013 and 14 November 2014:

- o Intelligence from 18 whistleblowing cases have been referred for FCA enforcement activity or have directly led to the protection of consumers through other intervention.

- Intelligence from 108 whistleblowing cases was of significant value to the FCA and contributed to the discharge of its functions.
- Intelligence from 377 whistleblowing cases was, or may be, of value to the FCA but is not currently actionable or does not meet current regulatory risk thresholds.
- Intelligence from 162 whistleblowing cases was of little value and is unlikely to assist the FCA in the discharge of its functions.
- A further 944 cases remain open and are still under review or being assessed.

The FCA does not indicate, when making public announcements, that whistleblowing intelligence assisted in bringing the case to conclusion. To do so would potentially lead to the identification of a whistleblower, particularly in relation to smaller firms with fewer employees.