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31 March 2014

Our Ref: FOI3266

Dear Mr Glare

Freedom of Information: internal review

I refer to your e-mail dated 31 January 2014 asking for an internal review of the Financial Conduct Authority's ("FCA") response of the same date to your information request made under the Freedom of Information Act 2000 ("the Act"). I have also noted the comments you made in your e-mail dated 14 March 2014 in response to the update we provided you on this. I apologise that this review has taken longer than our normal time frame.

Your original request was:

"... the release of all information obtained from the banks by Martin Wheatley in connection with the two letters he wrote to HM Treasury on 25th February 2013 and on 9th May 2013 via a Freedom of Information request on behalf of the 90 members of our group."

You provided copies of the two letters to which you refer, which relate to the issue of loans with mark-to-market break costs.

Preliminary

As from 1 April 2013, the Financial Services Authority ("FSA") was superseded by the FCA. For convenience, references in this letter to the FCA are also to its predecessor, the FSA, where appropriate.

The FCA's initial decision informed you that we hold the information requested but that this information is prohibited from disclosure under section 44 of the Act because this has been received by the FCA for the purpose of carrying out its regulatory functions under the Financial Services and Markets Act 2000 ("FSMA"). Section 348 of FSMA restricts the FCA from disclosing

"confidential information" it has received except in certain limited circumstances (none of which applies here).

I should point out that requests for information made under the Act are generally "applicant blind". This means that the FCA has no need or indeed entitlement to know, nor should we speculate, as to why the information has been requested (although I appreciate that in this case you have explained why you want the information).

Internal review

In your request for an internal review you refer to the Information Commissioner Office's FOI Policy Knowledge Base guidance on FSMA and, in particular, the prohibition in section 348. As is noted, section 348(4) FSMA states that information is not confidential if (a) it has already been made legitimately available to the public; or (b) it can be summarised or so framed that it is not possible to ascertain from it information relating to any particular person.

Sub-section 348(4)(a) FSMA is not a relevant consideration in this case because the information is not publicly available. However, you have asked if it would be possible under sub-section (4)(b) for us to make the requested information anonymous. You suggest we would be able to do this by referring to each bank by a letter of the alphabet.

I have concluded that we are now able to disclose to you some of the information you have requested by anonymising and, where appropriate, aggregating the information we hold regarding loans with mark-to-market break costs. This is provided in the Annex to this letter.

For the remaining underlying information, however, I am not able to disclose this to you because the information is prohibited from disclosure by or under any enactment (section 44 of the Act). The application of this exemption, which is absolute, was explained in our initial response to you. Taking into account the nature of the information the FCA received from each bank, I was concerned that disclosing more detailed information would allow information about the individual banks to be "ascertained", which would be a breach of section 348 FSMA.

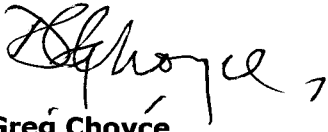
To conclude, I am satisfied that the information you have requested for ... *"the release of all information obtained from the banks by Martin Wheatley in connection with the two letters he wrote to HM Treasury on 25th February 2013 and on 9th May 2013"* is covered by section 348 of FSMA and therefore that the exemption in section 44 of the Act has been applied correctly.

Conclusion

I realise that you may be disappointed not to receive the information you sought in your original request, but I hope this letter goes some way to meeting your requirements and explains clearly why section 44 of the Act applies to the underlying information we hold.

If you are not content with the outcome of the internal review, you have a right of appeal to the Information Commissioner at the following address: *Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700, Website: www.ico.org.uk.*

Yours sincerely

A handwritten signature in black ink, appearing to read "G. Choyce", with a small flourish at the end.

Greg Choyce
Internal Reviewer

Financial Conduct Authority ("FCA")

Freedom of Information Request - (FOI3266)

Disclosure to Mr Glare with internal review response by anonymising and, where appropriate, aggregating the information held by the FCA regarding loans with mark-to-market break costs

1. Overview

Bank	Number sold
Bank A	11,271
Bank B	c.35,000
Bank C	2,467
Bank D	c.10,000
Bank E	c.11,000 (outstanding only)

2. Bank-specific details

Bank A

	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Product A	85	103	58	124	189	62	43	53	49	17	783
Product B	24	21	18	18	32	24	11	1	3	1	153
Product C	56	56	45	141	153	237	57	31	27	18	821
Product D	373	270	306	798	1275	1485	2399	994	1133	481	9514
Total	538	450	427	1081	1649	1808	2510	1079	1212	517	11.271

Bank B

	Total
Product E	c.25,000
Product F	c.10,000
Total	c.35,000

Bank C

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Total	151	276	299	319	305	279	270	94	133	123	94	102	22	2467
Total Value	£33m	£107m	£71m	£54m	£56m	£69m	£42m	£10m	£21m	£15m	£16m	£23m	£13m	£530m

Bank D

No further information

Bank E

	Number of outstanding loans	Outstanding balance
Product G (medium-low turnover customers)	9,700	£1.7bn
Product H (medium-low turnover customers)	350	£120m
Product I (high turnover customers)	950	£2.4bn
Product J (high turnover customers)	25	£225m
Product K (high turnover customers)	270	£890m