

26 July 2018

[personal information]

YOUR REQUEST FOR INFORMATION UNDER THE OFFICIAL INFORMATION ACT 1982

We refer to your request made on 18 May 2018 to the Financial Markets Authority (FMA) under the Official Information Act 1982 (OIA) as follows (**your request**):

May I please request all records of communications with AML/CFT entities notifying you, or requesting advice or feedback from you, about opting out of the Identity Verification Code of Practice (IDCOP) along with your responses and any relevant internal analysis where that adds to the eventual responses.

We further note your latest response of 15 June 2018 to our email of the same date notifying you of the extension of time for responding to your request.

Please note that the FMA processes notifications to opt-out of the IDCOP on a case-by-case basis. The IDCOP merely requires the reporting entity to provide written notification to its AML/CFT supervisor that it has opted out of compliance with the IDCOP and intends to satisfy its obligations by some other equally effective means (see page 4 of the IDCOP). Accordingly, the FMA relies on the statements provided by entities in the notifications rather than undertaking its own analysis. Occasionally we provide comment on what may be satisfactory as 'other equally effective means'.

For your noting, we **enclose** FMA's letter dated 11 January 2013 sent to a reporting entity in relation to opting-out with the entity names and personal information redacted. We further **enclose** internal correspondence amongst FMA staff in relation to communication with those entities with the entity names and personal information redacted.

We have made the redactions on the basis of privacy reasons under s9(2)(a), commercial sensitivity under s9(2)(b)(ii) and confidentiality grounds under s9(2)(ba) of the OIA. We do not consider there to be other considerations which render it desirable, in the public interest, to make these names available.

As at the date of your request, 18 May 2018, there were four reporting entities that contacted the FMA in relation to opting out of IDCOP. The remaining relevant information to your request consists of:

- (i) correspondence between those entities and the FMA (other than the **enclosed** letter); and
- (ii) correspondence between FMA and another AML/CFT supervisor.

We have determined to withhold the information in (i) and (ii) on the following grounds provided in the OIA:

- **s9(2)(a)**: withholding of the information is necessary to protect the privacy of natural persons;
- **s9(2)(b)(ii)**: withholding the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;

- **s9(2)(ba):** withholding of the information is necessary to protect information which is subject to an obligation of confidence where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied or would be likely otherwise to damage the public interest;

and additionally for (ii):

- **s9(2)(g)(i):** withholding of the information is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between employees of organisations in the course of their duty.

We further note that the Financial Markets Authority Act 2011 recognises the importance of retaining confidentiality of information obtained by the FMA and s59 of that Act prohibits disclosures of information obtained under any financial markets legislation, including the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

In respect of the information to which the grounds for withholding applies under s9 of the OIA, we do not consider there to be other considerations which render it desirable, in the public interest, to make the information available. When considering the public interest, we have taken into account that there is a public benefit in the FMA receiving information from third parties and it is recognised that releasing related information may discourage such disclosures being made in the future.

We note that you have a right by way of complaint under section 28(3) of the OIA to the Ombudsman, to seek an investigation and review of the FMA's decision to refuse to provide the information requested.

Yours sincerely

[personal information]