

**From:** Freedom of Information <foi@fca.org.uk>  
**Sent:** 02 August 2023 15:57  
**To:** 'daniel@mouseinthecourt.co.uk'  
**Cc:** Freedom of Information  
**Subject:** FOI10363: Right to Know Request

**Our ref: FOI10363**

Dear Mr Cloake,

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

Thank you for your email of 4 July, in which you asked for:

*I would like to repeat part of the below request (FOI9974) on the basis that the investigation into FundingSecure has now finished.*

*My new request please:*

*In relation to the investigation into the collapse of the peer-to-peer lending firm Funding Secure Ltd (FRN 698305):*

- 1. Please tell me the code name of the investigation*
- 2. When was the investigation opened?*
- 3. How many hours have been spent on the investigation to-date?*
- 4. What has been the cost of the investigation to-date?*

We have processed your request in line with the provisions of the Freedom of Information Act 2000 (FOIA) and our response is set out below.

**Our decision on your request**

We hold information relevant to your request, but we are unable to disclose it to you as we are of the view that making this information public would be likely to prejudice the exercise by the FCA of its regulatory functions under the Financial Services and Markets Act 2000 (FSMA). The information is therefore exempt from disclosure under Section 31 (Law enforcement) of FOIA.

For a detailed explanation of why this exemption applies, please see Annex A.

**Your right to complain under the FOI Act**

If you are dissatisfied 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](mailto: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](http://www.ico.org.uk)

Yours sincerely

## Information Disclosure Team



12 Endeavour Square  
London  
E20 1JN

## Annex A

### 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) and 31(2)(a-c) of FOIA applies to questions 1 to 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 any person is responsible for any conduct which is improper,
- the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise.

This exemption applies because if we disclosed the information now, it would, or would be likely to, prejudice any such investigations or actions. Since section 31 is a 'qualified exemption', we have considered relevant factors in favour of and against disclosing the 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.
- Disclosing the information would demonstrate how we respond to matters arising in the markets we regulate. It would also enable stakeholders (including regulated firms) to better understand why and how we make decisions on regulatory matters.
- Disclosure would also provide the public with information to help them in making decisions about their dealings, or potential dealings, with the markets and firms that are operating in the financial services sector.

#### *Against disclosure*

- There is a strong public interest in the FCA being able to carry out its functions in the most effective manner possible. Disclosing the information we hold falling within scope of the request would be likely to lead to widespread speculation which could hinder and prejudice the progress of future FCA enquiries, considerations and/or actions.

- Further to the above, such speculation would be likely to result in information being taken out of context and lead to incorrect conclusions being drawn about our investigations and decision-making processes.
- Disclosure would be likely to adversely affect the brand and reputation of the relevant entities without due process having been followed – i.e. without any formal public announcement and without the relevant entities having had the opportunity to comment.
- Disclosing this information would set a precedent for disclosing equivalent information about other concluded investigations where there is no public outcome. It is appropriate to consider any harm that would be caused by combining the requested information with information we could be forced to subsequently provide if the current request was complied with. As such, when combined with any future requests, the prejudice caused is likely to be far greater due to the resulting 'mosaic effect' whereby different pieces of information could be linked together to paint a larger picture of the FCA's enforcement processes.
- The cumulative effect of such a pattern of disclosures would be to expose information about the FCA's internal resourcing and strategic prioritisation of cases which are referred to the Enforcement Division. Such information could be used to enable individuals / firms to conduct themselves in such a way as to evade the attention of the FCA's enforcement division. Motivated individuals could also identify areas where they consider the risks of detection being lower.

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 FOIA.

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