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[by email]

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Our Ref: FOI5516

Dear

Freedom of Information: Right to know request

Thank you for your request under the Freedom of Information Act 2000 (the Act), for information about the cost of investigations, that had an outcome of “no action” between January 2016 and October 2016.

Your request has now been considered and our response is below. We can confirm there have been 36 investigations between 1 January and 31 October 2016 that had an outcome of “no action”. The cost to the FCA of these investigations is £1,070,797.42. By cost to the FCA, we mean the amount spent by the FCA on external costs (such as external contractors, counsel, experts, professional services). The figure given therefore excludes internal staff costs to the FCA.

The external costs of these investigations can be broken down by month as follows:

A: Month	B: Closed with no action	External costs
Jan-16	3	£714,732.39
Feb-16	2	£9,242.00
Mar-16	6	£74,322.14
Apr-16	2	£16,150.00
May-16	4	£42,647.02
Jun-16	2	£0
Jul-16	2	£0
Aug-16	7	£173,414.00
Sep-16	1	£8,000.00
Oct-16	7	£32,289.88
Total	36	£1,070,797.42

The number of investigations, which closed between January and October 2016, fall into the following cost bands:

A: Cost Band (excluding internal staff costs)	B: Closed with no action
£0 - £1,000	14
£1,001 - £10,000	7
£10,001 - £50,000	11
£50,001 - £100,000	1
£100,001 - £200,000	2
£200,001 - £300,000	0
£300,001 - £400,000	1
<i>Total</i>	36

We would like to explain that the information provided above should be seen in the overall context of FCA enforcement trends. We also note that the above only shows the number of cases closed with no action and does not provide the overall number of cases investigated over the relevant period.

Further, when comparing the figures given in response to FOI5448, please be aware during 2017 there had been an approximate 75% increase in the number of investigations we commenced. This is mainly as a result of three factors: more investigations into capital market disclosures; the extension in scope of the reporting regime for firms brought about by the Market Abuse Regime which has given the FCA a richer and more varied market picture; and the change in the FCA's approach when deciding whether to open an investigation.

Of significance, in November 2015 the HBOS Report written by Andrew Green QC reviewed the reasonableness of the FSA's investigations into HBOS. One finding was that the then FSA did not conduct investigations into the failure of HBOS when it could have because there was a view that the FSA was unlikely to win subsequent disciplinary proceedings. The problem with this approach was the difficulty in accurately evaluating the prospects of success in disciplinary proceedings before an investigation had even begun. This approach, therefore, had a tendency to discourage the FSA from starting investigations even though the threshold test for investigating was met and even though the public importance of investigating was high. This prompted us to rethink the starting point for our investigations.

Following our acceptance of the recommendations in the HBOS report, our general approach is therefore now to investigate where we suspect serious misconduct may have occurred.

An investigation, of course, is a fact-finding exercise. We do not pre-determine the guilt of a firm or individual under investigation. It is therefore to be expected that there will be some investigations that result in an enforcement outcome, and others that do not.

Yours sincerely

Information Disclosure Team