

19 June 2024

By email: [REDACTED]

Dear [REDACTED]

### Official Information Act 1982 Request (OIA) – OIA Request – number of cases

I refer to your original OIA request on 13 May 2024. On 21 May you clarified that the information you requested the following:

1. The number of offences (total number of referrals and misconduct complaints that the FMA has received) referred or reported to the Financial Market Authority from 2013 and every year up to and including 2023;
2. The amount in dollars alleged to have been the subject of the offences.
3. Of those offences how many resulted in a prosecution, year by year?
4. How many cases were closed?
5. How many remain unsolved/ active.
6. How many cases were referred to the FMA by the police in 2019, 2020, 2021, 2022 and 2023?

You also asked for the above to be broken down year on year for the past five years (except for 1).

### OIA response

We have considered your request under the Official Information Act 1982.

*1 – The number of offences (total number of referrals and misconduct complaints that the FMA has received) referred or reported to the Financial Market Authority from 2013 and every year up to and including 2023*

As clarified with you, we have interpreted your request as all information about misconduct matters or complaints the FMA received from external sources and the number of cases we opened as a result.

Please note that we have only included information from 2014, when our current internal system was implemented. We are unable to retrieve information prior to that date from the system, and to obtain the information from our records would require significant time and resources to search for the data. Accordingly, we have decided to refuse this aspect of your request just for the year 2013 pursuant to the following sections of the OIA: section 18(e) (despite reasonable efforts to locate it, the information cannot be found) and section 18(f) (the information cannot be made available without significant collation and research). We have considered whether charging or extending the timeframe for responding to your request would help as required by section 18A of the OIA. We do not consider that charging or extending the timeframe for responding would enable the request to be granted in these circumstances.

**Table 1: referrals from external sources**

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Total misconduct cases or complaints from external sources	677	1175	895	1023	714	923	848	969	844	1149

*2-The amount in dollars alleged to have been the subject of the offences*

We do not maintain records of this information. After discussing with our teams, it appears unlikely that we can compile this data. In some cases, this information was not required and was not recorded as part of our case assessment and investigation process. Additionally, some cases involve multiple entities or consumers, making it practically impossible for us to compile such data, and we do not possess this information for most cases.

Accordingly, we have decided to refuse this aspect of your request: pursuant to the following sections of the OIA: section 18(e) (despite reasonable efforts to locate it, the information cannot be found) and section 18(f) (the information cannot be made available without significant collation and research). We have considered whether charging or extending the timeframe for responding to your request would help as required by section 18A of the OIA. We do not believe that charging or extending this aspect of the request would enable the request to be granted in these circumstances.

*3-Of those offences how many resulted in a prosecution, year by year?*

Table 2 details the number of prosecution (criminal proceedings) initiated by the FMA. Please note:

- The FMA does not keep specific records of the number of cases initiated, by year nor by outcome. In order to respond to your request, we have gone through our media releases and other data sources to calculate the numbers.
- We have interpreted your request for number of prosecutions as number of criminal proceedings only. It is rare for the FMA to initiate criminal proceedings. Most of our responses are civil proceedings or other regulatory interventions, for example revoking licences, imposing conditions, giving directions, publishing warnings, stopping promotion or distribution of financial products and services.
- If you would like further information about criminal prosecution brought by the FMA the information is also available publicly on our website at: [Enforcement Activity | Financial Markets Authority \(fma.govt.nz\)](https://www.fma.govt.nz/enforcement-activity).

**Table 2: criminal proceedings initiated.**

	2019	2020	2021	2022	2023
Number of criminal proceedings initiated	1	2	1	0	2

*4-How many cases (referrals and misconduct complaints) were closed?*

Table 3 details the number of cases closed from the past 5 years (2019 to 2023). We included all cases that were categorised as 'resolved', 'cancelled' and 'withdrawn' in our system. Please note that cases from other

years (i.e., open from years prior might be closed in subsequent years, therefore the numbers might exceed the number of misconduct cases (as per Table 1).

**Table 3: Misconduct cases closed.**

	2019	2020	2021	2022	2023
Number of misconduct cases and referrals closed	920	836	968	825	1101

*5-How many misconduct cases or referrals remain unsolved/ active.*

Table 4 details the number of cases that remained open in the past 5 years (2019 to 2023). We included all cases that were categorised as 'in progress' and 'on hold' in our system. These numbers are likely the cases that that were opened in that particular year but remain open in our system to date.

**Table 4: misconduct cases or referrals remain unsolved/ active.**

	2019	2020	2021	2022	2023
Number of misconduct cases and referrals remain unresolved in the system	1	9	6	12	54

*6-How many cases were referred to the FMA by the police in 2019, 2020, 2021, 2022 and 2023*

From our records:

- In 2021: the FMA received 1 referral/ misconduct matter from NZ Police and 1 referral/ misconduct matter from Singaporean Police.
- In 2022: The FMA received 2 referrals/ misconduct matters from NZ Police.
- The FMA did not receive any referrals or complaint from police in 2019, 2020 and 2023.
- Please note that most of the referrals/ complaints noted above were often not within FMA's remit and as a result they were closed with no further actions taken by the FMA.

### Conclusion

You have the right to complain to the Ombudsman regarding our assessment of your OIA request, in accordance with section 28 of the Official Information Act. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or phone 0800 802 602.

Yours sincerely



Nath Lostitmonton  
Senior Legal Counsel