



Our Reference:

BY EMAIL ONLY

7 May 2015

Dear

Request for Information

Thank you for your email dated 9 April 2015 requesting the following information:

1. *The letter or email sent to housing associations with exposure to free standing derivatives in late January or early February 2015 questioning whether they had 'material concerns over [their] ability to collateralise increased margin calls over the next three months'.*
2. *The responses to (1)*

On 6 February 2015 a letter was sent to Registered Providers (RPs) who reported ownership of a free standing derivative product or products in the December 2014 quarterly survey regarding mark-to-market exposures. Attached to this response, we have provided you with the letter template in full which satisfies your request at point 1 above.

We can confirm that we have received responses from all the RPs contacted. The responses indicate whether the provider has any material concerns and, if so, how they are managing those. However, disclosure of any of this information would harm the HCA's ability to perform its regulatory function and therefore all the responses have been withheld under Section 31 of the Freedom of Information Act (FOIA). We consider that disclosure of responses even where 'no material concern' is cited or exposure is being managed would enable to the public to identify which RPs may have had concerns and could thereby harm the HCA's ability to regulate effectively and in accordance with statute. The HCA works with RPs in a variety of ways, including corresponding with them to discuss areas of regulatory interest which may require further information to be supplied, to ascertain if regulatory action is needed. The HCA considers that disclosure of the withheld information would hinder the HCA's ability to exercise its statutory regulatory powers as set out in the Housing Regeneration Act 2008 (HRA) for future investigations as it could compromise our ability to request information, discuss issues and receive candid information from RPs. In light of the above, exemption Section 31(1)(g)(2)(a) is engaged.

Section 31 – Law Enforcement

31. (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice -

- g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2)

(2) The purposes are (in this case):

- a) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment may exist or may arise

To maintain this exemption we also need to consider the Public Interest Test factors in favour of disclosure and non-disclosure. Below we have set out both arguments.

Public Interest test – factors in favour of disclosure

We recognise that there is a public interest in operating transparently and being held to account in how we regulate RPs.

We also recognise that it is of interest to the public to understand how the HCA conducts investigations and how it works with RPs at such times.

Further, there would be public interest in releasing this information to provide the public with the ability to challenge or make comment on the issues discussed.

Public Interest test – factors in favour of non-disclosure

Disclosure would harm our ability to conduct future assessments/investigations if the bodies we regulate cannot be candid with us. It could also affect the voluntary supply of information either from the RPs themselves or other parties wishing to remain confidential in matters concerning the possibility of regulatory action. These outcomes would have a negative impact on our ability to regulate in accordance with our statutory obligations.

The HCA considers there is more than enough published information on how we regulate RPs. We publish Regulatory Notices and Judgements, which set out our views of a provider, [here](#) so providing detailed information that reveals candid discussions would not further enable the public to understand our regulatory process and is therefore not in the public interest to release it.

We have therefore concluded that the balance falls in favour of non-disclosure at this time. We would however state that the public interest is continually changing and that whilst we are unable to release this information at this time, we welcome all requests for information and a future request on this matter would again be considered against the prevailing public interest of that time.

If you have any questions regarding this response or any further queries you can contact us at the following addresses and quote your unique reference number found at the top of this letter:

Email: mail@homesandcommunities.co.uk

Mail: Information Access Officer
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are unhappy with the way Homes and Communities Agency has handled your request you may ask for an internal review. You should contact

Head of Legal Services
Homes and Communities Agency
Fry Building
2 Marsham Street
London
SW1P 4DF

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely

Naomi McMaster
Information Access Officer
Homes and Communities Agency