

30 August 2019

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

Official Information Act request #19.005 – Interest Rate Swaps

1. We refer to your Official Information Act 1982 (OIA) request received on 5 July 2019 for information about the Commerce Commission's (Commission) 2012/2013 investigation into banks' marketing, promoting and selling interest rate swaps to rural customers during the time period from 2005 to 2009. In particular:
 - 1.1 details of correspondence with banks and the Financial Markets Authority (FMA) during and after this time about the interest swap deals and the resolution of losses to customers;
 - 1.2 details of the complaints made to the Commission by bank customers about the interest rate swaps;
 - 1.3 information about whether the Commission came up with an estimated value for the money lost by bank customers as a result of the interest rate swaps; and
 - 1.4 any documents about how the Commission came up with the final settlement number with the banks.
2. On 18 July 2019, during our phone conversation, you clarified the scope of your request to:
 - 2.1 copies of the complaints received by the Commission about the interest rate swaps;
 - 2.2 information about how the Commission quantified the loss to customers, including whether the Commission came up with any estimates and if so, how that number (or numbers) was established; and

- 2.3 a copy of the report prepared by the Commission on this matter.
3. On 2 August 2019, we granted paragraphs [2.1] and [2.2] of your request and extended the time to decide paragraph [2.3] of your request to 30 August 2019.

Our response

4. In our letter of 2 August 2019, we advised you that:
- 4.1 the Commission produced four enforcement reports during its investigation; an overarching report and one for each of the three banks. The purpose of an enforcement report is to provide an assessment of whether the Commission has sufficient evidence to establish a breach of the legislation we enforce.
- 4.2 the Commission produced three investigation termination reports at the completion of its investigation; one for each Bank. The purpose of a termination report is to ensure there is a full record of the information and evidence gathered by the Commission during the course of its investigation, to provide a summary and explanation of the conclusions reached by the Commission and the enforcement decisions it made.
5. On 18 July 2019, during our phone conversation, you clarified the scope of paragraph [2.3] of your request to the overarching report and the three investigation termination reports.
6. We have decided to provide a copy of the overarching report. We are preparing the report for release and it will be provided to you without undue delay.
7. We have decided to decline your request for copies of the three investigation termination reports, under section 9(2)(h) of the OIA to maintain legal professional privilege.
8. We have identified that any information contained in the three termination reports which is not covered by legal privilege will be provided to you in the overarching report and/or was provided to you in website archive on 2 August 2019.
9. We consider that good reason exists for withholding the termination reports, and this is not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).

Further information

10. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
11. The Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.

12. Please do not hesitate to contact us at uia@comcom.govt.nz if you have any questions about this request.

Yours sincerely,

Mary Sheppard
OIA Coordinator

Released under Official Information Act 1982