

# UK Financial Investments Ltd

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**Marie-Anne Barnes**

Senior Policy Advisor

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29<sup>th</sup> January 2010

Mr Michael Dolan

By e-mail: [request-24803-0554d8c9@whatdotheyknow.com](mailto:request-24803-0554d8c9@whatdotheyknow.com)

Dear Mr Dolan,

You requested an internal review of our reply to your Freedom of Information Act request for information on the number of legal proceedings which have been initiated in the UK by RBS Invoice Finance Ltd against officers (actual or shadow) and/or employees (former or current) to recover loss or damages sustained in consequence of fraud or misrepresentation during each of the least three years including 2009 to date. You also asked, of these legal proceedings, what has been the cost to RBS Invoice Finance Ltd of fees paid to third parties, including lawyers and accountants and what is the sum actually recovered to date (actual as opposed to the sum of Judgments) during each of the least three years including 2009 to date.

For this internal review we have conducted an impartial and thorough reconsideration of the decision and handling of your original request. We have consulted within UK Financial Investments (UKFI) as well as referring back to the Information Commissioner's guidance on the Freedom of Information Act and requests for an internal review.

We have taken a fresh look at the scope of your request and can confirm that we fully understand the nature of the information you have requested. The scope covers information held by UKFI on the number of legal proceedings initiated by RBS, an investee company of UKFI, within the last three years to date. The scope also includes information on the costs of these legal proceedings, and the amount recovered by RBS as a result of these proceedings. We can also confirm that a search for the information was conducted within UKFI and that this search returned nil results. Our view is that no exemptions or balance of public interest considerations apply to this case as the requested information is not held by UKFI.

Having reconsidered your request and the response provided by UKFI in line with the guidance provided by the information Commissioner, we uphold the decision of the case that the information is not held by UKFI and therefore we are unable to provide this to you.

We note that in your request for an internal review you make the new case that RBS Invoice Finance Ltd is 84% owned by UKFI and is (for all intent and purposes) under UKFI's control and you also request that UKFI should obtain the information you require. Under section 1 of the Freedom of Information Act, where someone requests information from a public authority, that authority is required to inform the requester if it holds the information and, if so, to provide it (subject to exemptions).

A "public authority" is defined in section 3 to include a publicly-owned company, which in turn is defined by section 6 as meaning a company which is wholly-owned by the Crown or a public authority. I refer you to the Information Commissioner's Guidance at

[http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/fep105\\_publicly\\_owned\\_companies\\_v1.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/fep105_publicly_owned_companies_v1.pdf)

As a result UKFI is a public authority within section 3. RBS is not.

As a public authority, UKFI holds information, within the terms of the Act, if it holds that information or if another person holds it on UKFI's behalf (section 3(2)).

The information which you ask is not held by UKFI; nor is it held by RBS on UKFI's behalf. UKFI's relationship with RBS, as described in its Framework Document, is that of an arm's-length institutional shareholder. RBS is a separate entity, with its own independent board and management team. Accordingly information held by RBS and not by UKFI itself does not fall within section 1 of the Act.

We are sorry that we are not able to be more helpful in this matter, but can only suggest, as in our previous correspondence, that you contact the RBS invoice finance team on the email address provided: [invoicefinance@rbs.co.uk](mailto:invoicefinance@rbs.co.uk).

Yours sincerely,



Marie-Anne Barnes  
Senior Policy Advisor

**Your Rights to Complain under the FOI Act**

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an review of our decision, you should write within two months of the date of this letter to UK Financial Investments, G/08, 1 Horse Guard Road, London SW1A 2HQ. email - [ukfi.enquiries@ukfi.gsi.gov.uk](mailto:ukfi.enquiries@ukfi.gsi.gov.uk)

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Treasury. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.