

18 September 2024

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

By email: [REDACTED]

Official Information Act 1982 Request (OIA) – Request for Information Regarding Complaints and Correspondence Related to Binance and Affiliated Entities

1. I refer to your official information request dated 21 August 2024 regarding the above matter.
2. I note that your requests are as follows:

Request 1

All complaints received by the FMA concerning Binance, including, without limitation, those relating to the sale of derivatives such as futures, options, and leveraged tokens (VLTs).

Request 2

Any information held by the FMA which indicates that Binance may violated any New Zealand laws at any time including, without limitation, under the Financial Markets Conduct Act 2013. Such request shall specifically include any knowledge or information with respect to Binance’s advertising and sale of derivatives to New Zealand investors prior to the time that InvestbyBit was granted a Financial Service Provider license (the “FSP License”) in September 2022. By way of example, knowledge or information related to (i) Binance’s advertising targeted to New Zealand investors prior to the FSP License such as the representative emails attached as Attachment A, (ii) Binance’s promotions targeted to New Zealand investors prior to the FSP License such as the representative emails attached as Attachment B, (iii) the existence, and subsequent deletion of, all content prior to September 2022 on Binance New Zealand’s Facebook page (see Attachment C), and (iv) the existence, and the subsequent deletion of, all content prior to September 2022 on Binance New Zealand’s Telegram channel (see Attachment D).

Request 3

Information on any investigations initiated or actions taken by the FMA against Binance in response to any complaints or illegality identified by the FMA.

Request 4

Any correspondence between the FMA and Binance or other relevant parties concerning complaints or related regulatory issues.

Request 5

Any guidelines, policies, or internal documents related to how the FMA handles complaints against cryptocurrency exchanges like Binance, especially in relation to derivative products.

Request 6

Any information, including correspondence, documents, or applications, submitted by Binance or its representatives to the FMA in connection with its application and approval for InvestbyBit's FSP License.

Request 7

Any information, including correspondence or decisions, provided by the FMA to Binance or its representatives concerning the application, review, and approval process for the FSP License.

Our response

3. In relation to **Request 1**, we have found 5 related cases and have decided to release the information in part. Please note that the information we are releasing is in summary format as some information are withheld under section 9(2)(ba)(i) of the OIA – to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information – would be likely to prejudice the supply of similar information, or information from the same course, and it is in the public interest that such information should continue to be supplied.

Item	Case Ref.	Individual / Organisation	Case Created On	Brief Summary of the Case	Request
1.	CAS-106068-Q9W2C2	INVESTBYBIT LIMITED	18 Apr 2024	Complaint about Binance account being frozen without official reason. The matter is outside of FMA's remit. Referred complainant to IFSO for dispute resolution. Case closed.	Request 1.
2.	CAS-81502-D0L9P6	Binance	6 Mar 2023	Complaint by an overseas complainant that they cannot withdraw funds. The matter is outside of FMA's remit. Case closed.	Request 1
3.	CAS-80603-M0C9Q9	INVESTBYBIT LIMITED	19 Jan 2023	Complaint about a pyramid scam operating in NZ. No supporting information was provided to support the allegation. Case closed.	Request 1
4.	CAS-79736-Y9K3H8	Binance	21 Nov 2022	Complaint against Binance relating to illegal offering, and administration of unregistered financial investment product. Issue raised are outside the	Request 1

				FMA's remit. FMA responded to the complainant. Case closed. We also note that this is a complaint made by you.	
5.	CAS-73023-J9H3W6	Binance	11 Apr 2022	Complaint about calculation of trading margins, no further information was provided by the complainant and the entity was not based in New Zealand or registered to provide financial service in NZ. Out of FMA's remit. Case closed.	Request 1

4. **Request 2** – In addition to the above cases, we found 1 case relating to Request 2 and have decided to withhold the information under section 9(2)(ba)(i) of the OIA. Disclosing information in this case will likely prejudice the supply of similar information or information from the same source, and it is in the public interest that such information should continue to be supplied.
5. **Request 3** – In searching our database, we have not found any investigations, or any actions taken by the FMA against Binance as a result of a complaint, hence we have decided to refuse this request under section 18(e) of the OIA since the requested information does not exist.
6. **Request 4** – In addition to the cases mentioned above, we have found 3 cases involving engagement with other parties about Binance. We have decided to withhold information under section 9(2)(ba)(i) of the Official Information Act and section 59(1) of the Financial Markets Authority Act 2011. Due to the confidentiality of the information contained in these cases, it is important that the information is withheld. Disclosing information in these cases will also likely prejudice the supply of similar information or information from the same source, and it is in the public interest that such information should continue to be supplied.
7. **Request 5** – The FMA has some publications relating to “Cryptocurrencies” as guidelines to the public. Please see the links below:
- a. [Crypto asset service providers | Financial Markets Authority \(fma.govt.nz\)](#).
 - b. [Cryptocurrencies | Financial Markets Authority \(fma.govt.nz\)](#).
 - c. [Warnings and alerts | Financial Markets Authority \(fma.govt.nz\)](#). You may search “crypto” or “cryptocurrency” in the search bar for related information.

Apart from the published information mentioned, FMA does not hold any guidelines, policies or internal documents related to how the FMA handles complaints relating to cryptocurrency exchanges, especially in relation to derivative products. Additionally, our website includes general information on making complaints and how we process complaints. Please see the link at <https://www.fma.govt.nz/contact/make-a-complaint/>.

8. **Request 6** – The FMA does not hold any information relevant to this request. Registration on the FSPR is not a licence and is not subject to any typical licensing requirements or assessment. The FMA is not involved in the registration process (see paragraph 9 below) unless a registrant is referred by the Registrar. The Registrar has not referred any information connected to Binance’s FSP registration to the

FMA. Consequently, we have decided to refuse the information you have requested under section 18(e) of the OIA as the information requested does not exist.

9. For your information, the FSPR is a public register of financial service providers set up under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (FSP Act). It enables consumers and regulators to see information about businesses and individuals providing financial services. The Registrar of the FSPR at the Companies Office oversees and maintains the FSPR. The Companies Office website clearly states being registered on the FSPR does not necessarily mean that a business or individual is licensed, monitored or supervised by regulators in New Zealand or another jurisdiction. Being registered on the FSPR demonstrates only that a business or individual has met basic 'negative-vetting' requirements. This means directors and senior managers do not have recent criminal convictions or insolvencies, and no convictions at all for money-laundering or terrorist financing. For more information on FSPR, please visit: [Financial Service Providers Register \(companiesoffice.govt.nz\)](https://companiesoffice.govt.nz).
10. You may wish to contact the Registrar of Financial Service Providers for information about Binance's registration.
11. **Request 7** – as per response to Request 6.

In relation to the information withheld under section 9 of the OIA, I am of the view that the reasons outlined above are not outweighed by other considerations that render it desirable, in the public interest, to make this information available.

You have the right to complain to the Ombudsman regarding our assessment of your OIA requests, in accordance with section 28 of the OIA. Information about how to make a complaint is available at www.ombudsman.parliament.nz or phone 0800 802 602.

If you have any questions, please contact me at christiner.chan@fma.govt.nz.

Yours sincerely

Christiner Chan



Legal Counsel