

29th January 2015

Dear Complainant,

Complaint against the Financial Conduct Authority
Reference Number: FCA00043Thank you for your email of 2nd January 2015.

As the rules of the scheme under which I consider complaints can be found on our website at www.fsc.gov.uk/complaints-scheme/, I shall not repeat them here.

Your complaint

From your email, and from the papers supplied to me by the FCA, I understand that you were the victim of identity theft and feel that the rules the FCA has put in place for the banks in relation to the verification of identity when opening internet based accounts are insufficient (element one of your complaint).

You are also disappointed with the manner in which the FCA dealt with your original enquiry (element two of your complaint), and the outcome of its investigation into your complaint.

My position

In considering this case, I have reviewed the regulator's investigation papers (including the recording of your telephone call with the FCA) and the arguments put forward by the FCA.

I have noted that the FCA's position is that they are unable to investigate element one of your complaint. Whilst the FCA has explained the reasons for this I have noted that when you contacted my office you say you "thought that the Fca wrote the rules [for] banks and now the[y] say the rules are excluded".

The rules of the Complaints Scheme under which I and the FCA work clearly state that:

"Excluded from the Scheme are complaints...in relation to the performance of the regulators' legislative functions as defined in the 2012 Act." I am afraid this means that the FCA were right to say that your complaint about the rules for bank accounts cannot be considered under the scheme, which is why the FCA did not consider element one of your complaint.

Although the FCA excluded this part of your complaint, it tried to explain the requirements it imposes upon firms. However, your view is that in its explanation "so much jargon has been used, which has left [you] unable to understand any of this".

I hope that you will find the following explanation helpful. Although the FCA does not make rules about the identification requirements for opening bank accounts, there are strict rules, the Money Laundering Regulations 2007 (the 2007 Regulations), which set out formal requirements on all banks to take steps to identify a customer's identity when opening a new account. As an identity can be verified by a number of different methods the 2007 Regulations do not say how a bank has to verify an individual's identity.

The guidance the FCA issues to banks is that they must comply with the requirements imposed by the 2007 Regulations. However, in addition to complying with the 2007 Regulations the FCA also requires firms to establish, implement and maintain adequate policies and procedures to ensure that firms are not used for financial crime. I would also add that, as part of its general supervision, the FCA does review how a bank addresses and complies with the anti-money laundering legislation.

In summary, there are regulations passed by Parliament requiring banks to verify customers' identities, the FCA's guidance to banks reinforces those requirements, and the FCA monitors the banks' procedures. The impression which you were given during your initial conversation with the FCA was therefore misleading. It is most unfortunate that this was not explained to you more clearly at an earlier stage.

This takes me to element two of your complaint, the way in which your call of 24th October 2014 was handled. Having listened to the call, I am disappointed that the member of staff failed to appreciate fully the issue you were raising, provided you with incorrect guidance and, what is particularly concerning to me, seemed unable to direct you to the Complaints Team or indeed transfer your call to the Complaints Team.

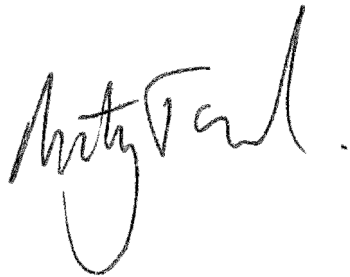
It is clear from the FCA's decision letter that it shared my view that the way the call was handled fell short of the standards it expects. It has raised its concerns with the Consumer Contact Centre (CCC) management and has also apologised to you for this failing. The Complaints Team has also raised your concerns over Bank T's procedures with the bank's Supervision Team within the FCA.

You say that when "I complained to them by email I was asked how I would like to be contacted and what I wanted. I believe that neither of these requests were adhered to". I appreciate that when you spoke to the member of staff on 24th October 2014 you were asked how you would like to be contacted, but that was in relation to the issues arising out of that particular call. When responding to a complaint it is the FCA's usual practice to do this in a letter which will either be sent by post or by email. When you complained to the FCA on the evening of 24th October 2014 you did not specify that you only wanted to be contacted by email. Likewise, when you set out what remedy you were looking for you stated "Not sure. I can appreciate the [] guy was only telling me what he is told to say but it's just not good enough". I do not consider that the FCA was significantly at fault in the manner in which it finally responded to your complaint.

In conclusion, I consider that your phone call with the FCA was handled very poorly, gave you incorrect guidance, and left you with the false impression that there were no requirements upon banks in relation to the opening of accounts. The FCA's response to your complaint, including the apology, was correct, and attempted to put the matter right: they provided a full if rather technical explanation, which I have tried to clarify above. They were correct to say that the issue about the rules (element one) was excluded from the scheme.

In summary, I agree with the FCA's decisions to exclude element one of your complaint from the scheme, and to uphold element two with an apology. I hope that you will understand why I have reached this decision and that the further clarification I have given will reassure you about the FCA's requirements upon banks.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner