

19 January 2017

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00209**

Thank you for your correspondence about your complaint against the Financial Conduct Authority (FCA).

How the complaints scheme works

As you can find full details of how I deal with complaints at www.fscs.gov.uk I have not set them out here. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fscs.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

I have reviewed all the information you and the regulator have provided us with. My decision on your complaint is explained below.

Your complaint

You made a complaint about the FCA as you believe that the COMP Rules they put in place, specifically COMP 7.4.1, are detrimental to consumers and in fact go against the FCA's statutory objectives of protecting consumers. The rules require the Financial Services Compensation Scheme (FSCS) to pursue any routes of recovering monies from dissolved firms that seem possible and are cost effective, even where this may reduce the sum available to consumers.

This rule has caused you and a colleague significant distress as the FSCS commenced action in the courts to recover money from firm D's PI insurers. The outcome of this action was that you will not be able to recover all of your losses as former clients of firm D. The FSCS declined your request to stay their claim until yours can be dealt with, citing COMP 7.4.1 as their reason for doing so.

My findings

Having carefully considered your correspondence and the files submitted to me by the FCA, I conclude that I am unable to investigate your complaint as it falls under paragraphs 3.4 c) and e) of the Complaint Scheme, which state that complaints about the performance of the regulators' legislative functions (such as making rules) and complaints about the Financial Services Compensation Scheme are excluded from the Scheme. You have received full

explanations about the procedures operated by the FSCS, and in essence your complaint is about the policy behind the COMP rules. You clearly believe that these rules are detrimental to consumers, and your best means of addressing this is through lobbying the FCA and your MP, which you appear to be doing already.

I considered your submissions following my decision letter and while my decision remains unchanged, I do have sympathy with your point about the fact that you found the FCA's and the FSCS's websites lacking in information aimed at consumers about the FSCS's duty to pursue recoveries when financially feasible. This information is available in the COMP 7 section of the FCA's Handbook, and is not a hidden term. But I do agree that a consumer is unlikely to start looking for information about his or her rights in the FCA Handbook, which is aimed at firms.

Furthermore, in light of your concerns, my complaint investigator reviewed the FSCS's website to see if information about the COMP rules and their implications for consumers can be found on its website. She found that while the information is there, as with the FCA, it is displayed in the section aimed at the "Industry". (<https://www.fscs.org.uk/industry/funding/recoveries/>).

While, as stated before, these matters fall outside the remit of this office, I have written to the FSCS and the FCA to highlight your point about the accessibility of relevant information to consumers on both of their websites. It is for these organisations to review the matter and take further action, if they chose to do so.

I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it

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