

23 January 2017

Dear Complainant

**Complaint against the Financial Services Authority
Reference Number: FCA00272**

Thank you for your letter dated 3 January 2017 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.fsc.gov.uk I have not set them out here.

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 against the FSA in November 2016 as follows:

You are unhappy with the FSA's statements about Unauthorised Collective Investment Schemes (UCIS), particularly statements made in 2012 by the FSA's former Managing Director of Conduct Business. The FCA later recategorised UCIS funds as high risk. You say that you have suffered as a result because it affected your reputation in the market. You also say that, because of reputational damage to you, you have been unable to join several financial advice networks. As a result, you seek an apology from the FCA and compensation for loss of earnings.

The FCA excluded your complaint under Paragraph 3.3 of the Complaints Scheme, which provides that complaints should be made within 12 months of the date on which you first became aware of the circumstances giving rise to your complaint, unless you can show reasonable grounds for the delay.

You subsequently challenged the FCA's decision on the basis that you had only become aware of the effects of the FSA's statements about UCIS during 2016.

The FCA did not agree that even if the regulator's work did have the effect you allege, it would not have been apparent much sooner. You then brought your complaint to me.

My findings

Having carefully considered the evidence before me, I note that after the FCA issued its decision letter, you explained why you were making your complaint outside the 12-month time limit. The FCA did not agree with your reasons, but replied comprehensively to you on 13 December 2016 explaining why and offering further information.

The FCA pointed out that in April 2011 the FSA fined the firm S (in which you had held a controlling function until 2010) for breaches of principles 3 and 9 in respect of UCIS promotions. The FCA expressed regret that you might feel the regulator's action caused you damage, but it suggested that a more appropriate way of challenging enforcement action against the firm which may have prejudiced you would have been by making an application for recognition of third party rights in respect of the published final notice under s393 of the Financial Services and Markets Act 2000.

That letter went on to say that you then worked for S IFA which began winding up on 26 June 2012 and subsequently you joined an offshore IFA S&J until the end of 2015.

Having left S&J at the end of 2015, you allege that you were unable to secure employment in 2016 due to the reputational damage you suffered due to the FCA revised guidance on UCIS in 2011-2013.

The FCA has already explained to you in its letter of 13 December 2016 that complaints against the FSA's (and formerly FSA's) publication of guidance and rules in 2013 on UCIS would be excluded under paragraph 3.3 of the Complaints Scheme, as complaints about the regulators' legislative functions as defined by the Financial Services and Markets Act 2000 are excluded.

I am sorry for the distress you feel over these matters, but I do not think the Complaints Scheme is the appropriate forum to investigate the allegations you make. I agree with the FCA's position that your complaint about the FCA's general regulation of UCIS is excluded under the Scheme, and that any reputational damage you may have incurred from the Final Notice against firm S would have been better dealt with elsewhere, and therefore should not be investigated (see paragraph 3.6 of the Complaints Scheme).

I realise 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