

4 October 2018

Final report by the Complaints Commissioner**Complaint number FCA00274***The complaint*

1. You asked me to review your complaint against the FCA on 26 August 2018.

What the complaint is about

2. In 2014 you opened a personal account in the Czech Republic with firm X, an international firm for online trading services in contracts for differences. Since then, you have lost a considerable amount of money, and you believe this is due to unfair trading practices at the firm, and/or possibly fraud. You wish the FCA to investigate your case with a view to taking action against firm X, so you can recover your losses.

What the regulator decided

3. The FCA explained you say that your concerns had been passed to the relevant areas within the FCA. The FCA also explained to you that due to confidentiality restrictions, it would not be able to tell you what action, if any, it takes in response to the information you provided.
4. The FCA also apologised that its customer contact centre (CCC) had not provided you with a bespoke and empathetic response, and that it had also not passed your concerns to the relevant area when you first complained in 2016, although they have now done so.

Why you are unhappy with the regulator's decision

5. You believe the FCA have not treated your complaint fairly. You also wish to know what action, if any, the FCA will be taking with respect to your complaint and what your options are for recovering your losses.

FCA00274

Preliminary points

6. In the United Kingdom, the body which deals with complaints against financial services firms, and can arrange compensation, is the Financial Ombudsman Service (FOS), which is separate from the FCA. The FCA cannot change the decisions of the FOS, and nor can I.
7. The FCA's role is to regulate financial services firms, not to deal with individual complaints about the firms. My role, as Complaints Commissioner, is to provide an independent assessment of complaints against the Financial Conduct Authority (and the other financial services regulators).

My analysis

8. You first contacted the FCA CCC in December 2014 to highlight what you thought were irregularities in firm X's dealings with you, as a result of which you had lost your deposit. You asked the CCC for help to recover your deposit.
9. The CCC responded to you that as firm X was regulated by the FCA, you could complain to the firm in the first instance, and if the complaint was not resolved to your satisfaction, you could take your case to the Financial Ombudsman Service (FOS) for adjudication. You were also told that the information you had provided would be passed to the Supervisory department within the FCA but that due to confidentiality restrictions, you may not be told what action, if any, the FCA might take against firm X.
10. From the information available to me, I can see you emailed the FCA in 2016 to say that you had approached the FOS and your complaint had not been upheld. You also said that you had been advised to contact the Cypriot regulator, where one of the branches of firm X is authorised, to complain. You did this, but you say you were told that the only way to recover your losses would be through the courts.
11. You therefore hoped that the FCA, as regulator of firm X, would be able to assist you in recovering your losses.
12. The FCA has already explained to you that the FOS is operationally independent from the FCA, which means the FCA cannot intervene in the decisions the FOS makes in individual cases.

13. Information from complaints is used by the FCA to consider whether or not regulatory action is justified. Any action the FCA may or may not take as a result of the information you provided would not lead to redress for you personally.
14. The FCA does not generally tell complainants what action has been taken in response to the information that it receives. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) makes some information the FCA holds about firms confidential and restricts how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned. As a result, there is no general right for members of the public to know the outcome of reports that they make.
15. In its decision letter, the FCA told you that the information which you supplied to it in 2015 was not, but should have been, forwarded to the relevant supervisors at the FCA. The FCA apologised to you, and said that the information had now been forwarded.

My decision

16. In my view, the correspondence you received from the FCA set out the position correctly, although I agree with the FCA that the response in 2016 could have been clearer. I welcome the fact that the FCA has apologised to you for this, and the fact that it apologised to you for the failure to forward the 2015 information.
17. However, the principal issue is that you wish the FCA to intervene in a dispute between you and firm X. I am afraid that that is not the FCA's role. I understand you have tried complaining to the FOS, but it did not uphold your complaint. Your only other alternative is to seek legal advice about taking action in the courts. You have stated that you have already contacted a law firm.
18. I appreciate you are not happy with my decision. However, for the reasons I have given I am sorry, but I cannot help you further.

Antony Townsend
Complaints Commissioner
4 October 2018