

17 December 2018

Final report by the Complaints Commissioner

Complaint number FCA00521

The complaint

1. On 23 October 2018 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and by the regulator.

What the complaint is about

2. You asked the FCA's Complaints Team to investigate the FCA's handling of and delay in processing applications by your firm to become the Authorised Representative (AR) of another firm and for a Change in Control (CiC).

What the regulator decided

3. On 5 October 2018, the Complaints Team told you that it would be unable to investigate your complaint because it had not been brought within 12 months as required by paragraph 3.3 of the Complaints Scheme and there were no reasonable grounds for the delay. This decision was confirmed on 22 October.

Why you are unhappy with the regulator's decision

4. You consider that you did complain in time, as your MP raised the issues with the FCA in 2016 and you were dissatisfied with the Chief Executive's response. You then took a case to the Upper Tribunal which did not conclude until April 2018 and you made your complaint to the FCA immediately afterwards.

My analysis

5. In November 2016 your MP wrote to the FCA about the handling of the AR application and the time it was taking. The FCA's Chief Executive sent a response that included an invitation for you to attend for an interview in December 2016, which you did. The FCA's Complaints Team says that your

MP's letter was not a formal complaint but a series of questions on your behalf that were answered. My view is that this is a reasonable response.

6. Following the December interview, the AR application was withdrawn in January 2017. The CiC application was made in February 2017 and withdrawn in March 2017. You did not submit a formal complaint until April 2018.
7. In response to my preliminary report you have supplied me with further documents, including submissions made to the Regulatory Transactions Committee and the Upper Tribunal, in which you refer to the frustrated AR application. You consider these documents show that the FCA was fully aware of your dissatisfaction and have asked me to reconsider my decision on this basis. However, I am satisfied that references to the AR application were provided to give background and context to FCA enforcement action taken in the summer and autumn of 2017. The FCA is currently considering a complaint from you related to those later matters.
8. I have not seen anything to suggest you needed to await the outcome of the Upper Tribunal proceedings before bringing a complaint about the handling of the AR and CiC applications, nor is there any evidence that the FCA advised you to do so. In my view it was therefore reasonable for the FCA to exclude these aspects of your complaint as being out of time.

My decision

9. For these reasons, I agree with the FCA's decision that your complaint about the applications are out of time. I appreciate that this will be disappointing for you but I hope you will understand how I have reached my decision.

Antony Townsend
Complaints Commissioner
17 December 2018