

14 October 2022

**Final report by the Complaints Commissioner****Complaint number 202201105***The complaint*

1. On 20 May 2022 you asked me to review a complaint about the FCA.

*What the complaint is about*

2. In its decision letter dated 11 March 2022 the FCA described your complaint as follows:

You are unhappy as you have lost a large sum of money to a firm called Firm A who are based in Cyprus. You have said that when you were first contacted by the firm to invest, you were reassured about investing as they were registered with the FCA and the EEA. You researched Firm A on the FCA's register and found their registered number to be XXXXX. As such, thinking you were dealing with a reputable company, you started trading.

You first contacted the FCA regarding Firm A on 16 March 2021 via our web submission form. The reference for this query was XXXXX. You explained that you had been researching online how to invest in Bitcoin and filled out a webform with a firm. You were then contacted by telephone and were asked to pay €280 to open a trading account, which you did. You received lots of calls from the firm after investing, saying that trades had risen and margins had fallen, and pressuring you to pay in more funds. Eventually the trades collapsed, and you lost £80,000.

*What the regulator decided*

3. The FCA did not uphold your complaint. It stated that it had investigated the Financial Services Register (FS Register) to see what information was available

to the public regarding Firm A and had liaised with the relevant teams within the FCA.

4. The FCA explained that Firm A is registered for the temporary permission regime for EEA-based firms that previously passported into the UK. It then went into further detail about the terms of passporting and the temporary permissions regime. The FCA further clarified that Firm A had been passporting financial services into the UK from Cyprus since 2012 and appeared on the Register from that point.
5. With respects to protections afforded to consumers, the FCA stated that the fact that a Firm has a firm reference number did not mean that it is covered by the protections offered by the FCA or other agencies. The FCA went on to include what would have been included on the FS Register from 2014 for EEA authorised Firms. The FCA felt the onus was on consumers to carry out their own due diligence and it was satisfied that it had made clear to consumers the protections afforded to them when investing in EEA authorised Firms. The FCA also felt it did not act incorrectly by displaying the authorisation number for Firm A.
6. The FCA also shared what text would have been displayed under the 'How are customers protected' when the new Register was launched in July 2020 and that this was consistent with previous versions of the Register. The FCA appreciated that the versions of the Register it had shared in its decision letter may have been versions in place before you checked the Register. The FCA say it felt it was important to explain the consistency of the messages the FCA has provided to consumers investing in the type of Firm you invested in.
7. The FCA went on to describe a further statement that was added to Firm A's Register entry when it entered temporary permission on 1 January 2021. There was also discussion in the decision letter about the protection's information relating to all EEA firms updated in January 2021 to take Brexit into account.
8. Finally, the FCA detailed Firm A's current specific notice in its Register entry which explains consumers interested in doing business with Firm A are encouraged to ask for further information from the Firm or its UK branch about its complaints and compensation arrangements.

9. The FCA was satisfied that it had consistently made protections afforded to consumers in dealing with EEA based firms clear and the updated Register provided sufficient information to help consumers understand how Firms operate and why they have an FCA authorised number.
10. The FCA also shared URL links to its website in relation to the risks associated with high return investments and were keen to speak with you regarding your experience with Firm A. The FCA explained it cannot remove Firm A's registration number given that the firm is registered for the temporary permissions regime for EEA-based Firms that previously passported into the UK.
11. The FCA also informed you that you could raise the issue with CYSEC the Cypriot regulator and the Financial Ombudsman Service if you have not already done so.

*Why you are unhappy with the regulator's decision*

12. You mention in your complaint to me that when Firm A first contacted you regarding investing, you were assured that they were registered with the FCA and the EEA. You researched the Firm on the FCA Register and located the registration number. Subsequently you formed the opinion that you were dealing with a reputable Firm and decided to invest.
13. The crux of your complaint is that you are unhappy as to why Firm A has a registered FCA number with no protection from the FCA. You feel the rationale for why Firm A has an FCA authorised number remains unclear.
14. As a resolution you would like the FCA to completely remove Firm A from the FCA Register. You would also like the FCA to raise this with the EEA and want the FCA to compensate you for the loss you suffered by Firm A having an FCA registration number.

*Preliminary points (if any)*

15. I understand you have raised your concerns directly with Firm A. If you are unhappy with their response, I mirror what the FCA have stated in its decision letter, you are encouraged to raise your concerns with CYSEC the Cypriot regulator and the Financial Ombudsman Service.

*My analysis*

16. I am sorry to hear about the loss that you have suffered and the trouble and upset this may have caused you.
17. I have looked at all the information that has been provided to me including the FCA case file. I have also sought further enquiries with the FCA during my investigation to grasp the wider work the FCA has conducted regarding the firm connected to this matter. This is so that I can see the internal workings of the FCA in this area observing first-hand whether I feel the FCA's actions have been reasonable or fallen outside the bounds of reasonableness.
18. You are unhappy as to why Firm A has a registered FCA number with no protection from the FCA. You feel the rationale for why Firm A has an FCA authorised number remains unclear. The FCA provided an explanation in its decision letter as to why Firm A had a registered number. The FCA explained that Firm A was registered for the temporary permissions regime (TPR) for EEA based firms that previously passported into the UK. It then provided an explanation of the terms Passporting and the Temporary Permissions Regime. I appreciate you feel the FCA's rationale is unclear, however I think it recognised the need to provide further meaning and rationale for you in its decision letter which I think was helpful and set out clearly. I think it is worth mentioning that the [European Commission website](#) also provides a good explanation about the transition period,

When the United Kingdom leaves the European Union on 31 January 2020, after full ratification of the Withdrawal Agreement, we will enter into the transition period. This time-limited period was agreed as part of the Withdrawal Agreement and will last until at least 31 December 2020. Until then, it will be business as usual for citizens, consumers, businesses, investors, students and researchers in both the EU and the United Kingdom. The United Kingdom will no longer be represented in the EU institutions, agencies, bodies and offices but EU law will still apply in the United Kingdom until the end of the transition period.

19. I turn to your point that you are unhappy as to why Firm A has a registered FCA number with no protection from the FCA. I agree with the FCA's decision letter in the sense that, just because a Firm has been authorised, this does not automatically mean protection is instantly provided to an investor from the FCA and other organisations such as the Financial Services Compensation Scheme (FSCS). The FCA highlighted the protection sections that would have been applicable for the Register for Firm A's entry at the time that they were passported into the UK in 2012. It also included the statements on the Register that was displayed for EEA authorised firms from 2014 and other information. Whilst I cannot be sure that these are the actual screenshots for Firm A's registry entry at the time, it is highly likely this is what the Register would have resembled concerning which protections may have been applicable for Firm A. Notably in the 'other information' section it did suggest contacting the home state regulator of Firm A for more information about any action it has taken against the firm. It also suggested for those considering doing business with EEA Authorised firms they may wish to ask further information from the Firm about its complaints and compensation arrangements.
20. Based on the information I have seen, as the FCA most likely highlighted the potential protections that may have been available for investors of Firm A and also made suggestions for investors and potential investors to contact the home state regulator of Firm A, I think it's fair to say that the FCA provided information in the registry entry for Firm A concerning what protections may have been available. The right course of action as mentioned in the preliminary points section of my report if there are any individual disputes with Firm A, you are encouraged to raise any concerns with CYSEC the Cypriot regulator and the Financial Ombudsman Service. The Financial Ombudsman Service deal with individual disputes against Firms if you are unhappy with the response received from Firm A.
21. As a resolution you would like the FCA to completely remove Firm A from the FCA Register. You would also like the FCA to raise this with the EEA and want the FCA to compensate you for the loss you suffered by Firm A having an FCA registration number. As mentioned earlier in my report I sought my enquiries with the FCA whilst I investigated your complaint. The FCA have informed me

that Firm A have now entered a Supervised run off (SRO). Although a Firm entering SRO remains authorised to carry on its existing business, it is not legally permitted to enter into new business. I have checked the FCA Register entry for Firm A to cross reference what the FCA have shared with me. I can see in the registry entry it does confirm that Firm A has entered an SRO and it additionally provides a note which states ‘...This firm is running off its UK business and cannot deal with new customers...’ A message follows and the main part of this message which I believe to be relevant states as follows,

Firms in supervised run-off can continue to undertake regulated business in the UK, for a period, but can only perform regulated activities within the scope of their previous passport in the UK and only to the extent necessary to continue to service pre-existing contracts with UK customers or where necessary to reduce financial risk, to transfer property or comply with the law. For example, they are generally not allowed to deal with new customers or undertake any new regulated business, unless it is necessary to perform a pre-existing contract.

22. Based on the updated Register entry for Firm A and the additional information that the FCA have provided me with, I am satisfied as to why Firm A cannot simply be removed from the Register as it is now in an SRO. The Register has also been updated and provides a clear message that Firm A is running off its UK business and cannot deal with new customers. The FCA have also informed me that whilst a firm remains in SRO, the FCA retains full [Financial Services Markets Act 2000 \(FSMA\)](#) powers subject to the usual legal limitations. The FCA also has the power to remove firms from SRO. In these respects, overall, I think the risks for potential new investors being harmed is mitigated. I am sorry to disagree, but I do not think the FCA need to compensate you for the loss you suffered. You are encouraged to approach the FOS and CYSEC in relation to this.
23. The final point you raise is that you would like the FCA to raise this with the EEA. As part of my investigations, I have access to the FCA case file. This is so that I can see the internal workings of the FCA in this area observing first-hand whether I feel the FCA’s actions have been reasonable or fallen outside the

bounds of reasonableness. In these respects, in some situations I am subject to confidentiality obligations. Sometimes this means that all I can say to complainants is that having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material. I hope it provides some reassurance to you that based on my observations of the FCA's actions and the wider work it has undertaken in this area, I am satisfied the FCA have acted appropriately and acted where the need arises when it comes to Firm A.

24. It is also worth mentioning as per the FCA's decision letter, the Supervision Team at the FCA are still interested in hearing more about your experience with Firm A. If this were something that you would like to do, the FCA ask that you confirm the best number to call you on and it will be able to arrange a call back.

*My decision*

25. I am sorry but for the reasons above I have not upheld your complaint.

Amerdeep Somal  
Complaints Commissioner  
14 October 2022