

27 February 2023

Final report by the Complaints Commissioner**Complaint number 202201655***The complaint*

1. You complained to the FCA on 9 August 2022, stating that you were given incorrect information over the telephone and by email, and that the Financial Services Register (the Register) contained incorrect information about a firm.

What the complaint is about

2. You complained that the FCA provided you with incorrect information via email and telephone calls between February and November 2021, when you contacted it about what you believed to be a scam, which you appeared to have fallen victim to. You also stated that there was incorrect information on the Register.

What the regulator decided

3. The FCA did not uphold your complaint on the basis that the call takers provided you with the information they were expected to provide, based on the information you gave them, and none of this was inaccurate. It did not address your complaint that the information contained on the Register was incorrect.

Why you are unhappy with the regulator's decision.

4. You are concerned that you have been made to go around in circles by different departments at the FCA, some people were telling you that you had dealt with a scam, others that they cannot confirm one way or another. You have not been able to recover any of your losses through the firm, the FOS or the FSCS. You asked my office to consider the complaint.

Preliminary points

5. You first contacted the FCA on 5 February 2021 because you became concerned about a firm you had made an investment with. They asked you to make an additional investment of £20,000 to release your initial investment of £15,000. They had also asked you to download different Apps on your phone and other devices.
6. The person you spoke to asked a number of questions about what had been happening and gave you advice about how to protect yourself and your devices to prevent further potential losses. He also checked the FCA's Register and the details you provided did not match the details provided by the regulated firm.
7. The call taker stated that you are dealing with a potential clone firm (one which is set up by scammers who name some of the details of an authorised and regulated firm to contact consumers, but give their own phone numbers, email addresses and use bank accounts not related to the regulated firm). Information about other agencies where you may report these issues was also given on this call.
8. You asked the Associate to provide you with an email, confirming that you had been the victim of a scam, which he did send although it was slightly more cautiously worded.
9. You called again on 19 April 2021, asking for an email to specifically state that the firm you were dealing with was committing a scam and that it was not permitted to carry out regulated activities in the UK. You were sent an email stating that based on the information you provided, you may be dealing with a potential clone of the regulated firm. You were also given information about other agencies you may wish to refer to, such as Action Fraud.
10. On 7 May 2021 you called again, stating that the emails you had been provided with so far had not been sufficient as your bank was not willing to reimburse you based on these. On this occasion you were told that the FCA could not categorically say whether you had dealt with a clone of the authorised firm or if it was the authorised firm itself and that it was unable to say more than what had already been said over the phone and by email.

11. A suggestion was also made that you could complain against your bank if you felt they did not deal with your situation and complaint appropriately. The call taker talked you through the complaints process and towards the end of the call gave you information about the FOS.
12. In August 2021 you had the final call with the FCA's Supervision Hub, where much of the same information was repeated by both you and the FCA, but you did not get the categorical statement you were asking for and as such, you raised a complaint.
13. You then called again on 4 November 2021 and asked the FCA to confirm to you in writing that restrictions had been placed on the firm in May 2021, which was related to your ongoing complaint with your bank.

My analysis

14. Having reviewed the emails sent to you by the FCA and the recordings of your conversation with the Supervision Hub, as well as the Register, I find that the information provided to you by the call takers over the telephone in relation to the firm was not incorrect, but, as I set out below, it was not complete.
15. I have not seen any evidence of the FCA explaining to you that the firm you were raising concerns about was a firm registered in Cyprus, which was trading in the UK under the Temporary Permissions Regime and what that meant for consumers like you. Neither were you advised to contact the Cyprus Securities and Exchange Commission until the Decision Letter of the FCA, issued on 16 November 2022.
16. Neither have I seen evidence, based on the information provided to me, that your concerns were referred through to the correct department within the FCA following your calls from August 2022 onwards.
17. The above is relevant because the firm you dealt with was in fact not a clone, as initially thought, but one the FCA issued a [Supervisory Notice](#) about on 14 May 2021 and a [Press Release](#) on 26 May 2021, which not only provided information about the requirement to stop trading, it also gave quite a bit of detail about the different entities, where they were based and how UK consumers were enticed into trading with the non UK based subsidiaries, which effectively deprived them of a right to compensation through the FSCS etc.

18. The Supervisory Notice also detailed the fact that the FCA received 76 complaints from UK consumers about this firm, how much money these investors had lost, the tactics used by the firm to convince them to invest and why action was taken. Based on the information you provided to the FCA, you clearly had the same experience. If the link was not apparent in the earlier calls, it should have been identified in the August or November call.
19. Whilst, on 4 November 2021, you were sent a link to the Register which details the restrictions on this firm, you were, yet again, not given a link to the Supervisory Notice or provided with any information which was contained within it.
20. The failure to provide you with the above information and the failure to refer the matter to the correct department internally would undoubtedly have added to the distress and inconvenience you have experienced. The Notice clearly sets out the fact that the FCA had undertaken a rather detailed investigation which resulted in adverse findings and the requirements being imposed on the firm to stop carrying out regulated activities with UK consumers.
21. Had you been provided with this information, you may have understood what happened to you much better and your next steps with your bank, FOS and the FSCS might have been made less complicated as there is a lot of information in there about which entity is which and in what circumstances consumers are entitled to compensation through various channels, if any.
22. Finally, the complaint response from the FCA states *“At no point has any FCA representative stated you were or were not dealing with a clone company”*. On the first call on 5 February 2021, towards the end of the discussing, you were told at 23:33 *“it definitely looks like it is some imposters claiming to be this Cyprus firm”* and at 27:40 *“I have to say, unfortunately I am convinced that you had been a victim of a scam”*.

My decision

23. It is clear from the call recordings that, whilst the call taker took his time to establish whether it was the legitimate firm you were dealing with and he did suggest you contact them directly, using the details on the Register, to verify the details you had been given, he did indeed use definitive language to tell you that

you had been the victim of a scam. It is quite understandable why these words would have stuck with you; you lost over £15,000. Therefore, the assertion that you were not told one way or another whether you were the victim of a scam is incorrect.

24. Furthermore, whilst you may not have been provided with incorrect information and the Register may have been accurate, I find that not providing you with all the relevant information as and when it became available, certainly from August 2021 onwards, amounts to an error in the handling of your enquiries by the FCA. As such, I uphold your complaint.
25. In relation to your specific complaint, I **recommended** that the FCA reviews your issues through the relevant team with an understanding of the firm's set-up, subsidiaries and activities, provides you with any additional information it is able to share with you (subject to s348 of FSMA 200), such as clarification whether you dealt with the UK registered firm or one of the others or none of the above, and what remedies may be available to you now. The FCA has confirmed that it accepts this recommendation and will contact you about it separately.
26. In general, I **recommend** that the FCA reviews its internal systems and procedures for referring and linking cases/ concerns raised about regulated firms internally on an ongoing basis. The work of the FCA is complex and runs along many threads across several departments. It is imperative that all the potentially relevant information reaches the right teams at the earliest possible opportunity.
27. Additionally, the FCA also needs to be mindful that simply sending a link to the Register might not be sufficient for all consumers because not all consumers will be able to interpret the information for themselves, neither can they be expected to locate all the relevant information on the FCA's website.
28. This is especially the case when they had been told on a call with the FCA that they had been the victim of a scam and are clearly in distress as they had lost a significant amount of money. As such, I also **recommend** that when the FCA is in communication with a consumer about a firm, as a matter of course, it must share all the relevant information available at the time, pointing out the

resources made public on its website. This includes pointing to explanations of what things mean, such as the [Temporary Permissions Regime](#), and sharing any Press Releases and Supervisory Notices.

29. I also note that there are cases where the information available to the Supervision Hub and the public will change from the first call to the last. Supervisors need to be mindful to share the most recent relevant information and not just go based on previous notes on the case.
30. In addition to the recommendations above, I also **recommended** that the FCA pays you £500 for the distress and inconvenience you have suffered as a result of its handling of your enquiries and of your complaint. This is reflective of the fact that the FCA complaints team did not recognise the fact that you were told that you were the victim of a scam in the first call on 5 February 2021, nor did it recognise that you had not been provided with all the relevant information about the firm you raised concerns about as and when it became pertinent. The FCA accepted this recommendation.

Addendum 21 March 2023

31. Following the finalisation, but before the publication of this Final Report, the FCA contacted my office to inform me that some additional call recordings had come to light, which might change the outcome of the complaint.
32. In one of the call recordings, dated 18 August 2021, the Supervisor dealing with the call provided almost all the information this report identified should have been provided to you.
33. Had the recording been provided in a timely manner, it is likely that the complaint would not have been upheld and many of the recommendations would not have been made. The FCA had harmed its own position by failing to provide all the relevant information.
34. Considering the circumstances, the FCA is not seeking to overturn the recommendation of the ex gratia payment, which they had already made.
35. However, in addition to causing potential further distress to the complainant and undermining its own case, this lack of full disclosure stands to undermine the Complaints Scheme as a whole.

36. Both complainants and I, in line with paragraph 7.3 of the Complaints Scheme (*“The regulators will afford the Complaints Commissioner all reasonable cooperation, including giving access to their staff and information.”*), expect that the Regulators disclose to me all relevant information, including emails, documents, reports and call recordings when I ask for the complaint file.
37. It is accepted that the failure to disclose this information on this occasion was not intentional, specifically as it would not have benefited the FCA more than the complainant, but it is not the first time I have come up against this particular issue and despite the reassurances I had it has happened again.
38. I shall reiterate the fact that it is imperative I am provided with all the pertinent information in a timely manner, at the outset of the investigation of a complaint to ensure that the integrity of and trust in the Complaints Scheme is maintained.
39. I invite the FCA to confirm what safeguards it is putting in place to ensure that no such errors occur in future.

Amerdeep Somal
Complaints Commissioner
27 February 2023