

22 July 2024

Final report by the Complaints Commissioner**Complaint number 202300800***The complaint*

1. You made a complaint to my office as you are not satisfied with the FCA's decision not to investigate your complaint on the grounds that, under the rules of the Complaint Scheme (the Scheme), it was out of time. There were two parts to the complaint, which I investigated under Element one and Element two in this report.
2. I do not uphold Element one of your complaint, but I uphold Element two, for the reasons set out below. I have also made some comments in relation to both elements which may be helpful.

What the complaint is about

3. Your complaint to the FCA was about the FCA rejecting your application to become a CF30 (a regulated customer function under which individuals are permitted to give advice on regulated investments and financial products etc), in 2017 because it was alleged that you did not disclose something on your application that you were expected to disclose.
4. The FCA set out your complaint in two parts, going into some detail about what you alleged may or may not have happened in 2005 and 2017.

What the regulator decided

5. The FCA decided it cannot investigate your complaint as *“the circumstances giving rise to [it] would appear to be matters you were first aware of in 2017, yet this complaint was not submitted until more than 12 months later.”*

Why you are unhappy with the regulator's decision

6. In your complaint to my office, you said *"I was not aware of a time limit on complaints when there has been a miscarriage of regulation"*.
7. You wish for the FCA to investigate your complaint so that the "negative mark" on your record can be removed from the Register to enable you to work in the industry again. This is **Element one** of your complaint to my office.
8. You are also concerned that the FCA did not even comment on the request to remove from the Register a link to a company which you say you never worked for. This is **Element two** of your complaint to my office.

My analysis

Element one

9. Your complaint clearly stems from events that took place in 2005 and 2017 and there is no indication that you had no knowledge of these issues, at the latest by 2017. The Scheme gives 12 months for complainants to raise concerns with the FCA's Complaints Team. Your complaint is out of time under [paragraph 2.4 of the Scheme](#).
10. I note that as you are seeking to challenge a refusal to approve your application to become a CF30, even if your complaint was made in time, it is unlikely to have been investigated under the Scheme as it relates to a matter that *"would be better dealt with in another way (for example, by referring the matter to the Upper Tribunal or through other legal proceedings)"* (paragraph 2.11 of the Scheme).
11. I do not uphold this element of your complaint. However, considering the fact that you raised this complaint as you wish to gain employment in a regulated role again and you are unsure whether you need to declare the record from 2005, I **asked** the FCA to advise you on the process (if any) you need to follow in order to make an application for regulatory approval for such a role.
12. In response the FCA explained that it cannot give advice to individuals about the application process, which is correct, and I was not asking for this, however, it also provided a couple of links with information you may find useful:
<https://www.fca.org.uk/firms/approved-persons/apply-approve-individual-firm>

Element two

13. The FCA noted in its Decision Letter dated 12 February 2024 that “*You have further informed us that you have never worked for a company called [Firm X] and would like this to be amended*”, however this part of your complaint was not addressed in the Decision Letter.
14. Here you are informing the FCA that, in your view, there is a factual error on the Register, and you are asking it to correct this. I do not agree that such a request can be out of time. The Register needs to be accurate to serve its purpose, therefore this concern should have been referred to the relevant team within the FCA to investigate and resolve as appropriate and addressed in the Decision Letter.
15. For this reason, I uphold this element of your complaint. I recommended the FCA address this concern as soon as possible and asked that it confirms in its response to this Preliminary Report what steps it will take to do so.
16. In its response the FCA confirmed that your application to become a CF30 at Firm X was approved by it on 24 November 2017, of which you were notified by email. Firm X was acquired by another firm in 2019 and later that year became Firm Y. Just over a month after the name change, your CF30 function with the firm was ended and the Register was updated accordingly.
17. In order for the FCA to be able to update the Register, it is requesting that you ask Firm Y to provide confirmation of your dates of employment with Firm X. The FCA says the Register cannot be amended without this.

My decision

18. I do not uphold Element one of your complaint as not being aware that there is a time limit of 12 months for making complaints is not a sufficient reason. This information is in the public domain. However, I ask the FCA to assist you with information about the application process and what (if anything) you need to declare on your application.
19. I uphold Element two of your complaint as the FCA did not address your assertion that the Register contains factually incorrect information. I

recommended that this is investigated and resolved by the FCA to ensure the information on the Register is correct. In its response to the Preliminary Report, the FCA confirmed the steps you need to take in relation to this issue.

Rachel Kent
Complaints Commissioner
22 July 2024