

15 August 2024

Final report

Complaint number 202400083

The complaint

1. On 1 May 2024, you submitted a complaint about the FCA.

Background

2. You invested £400,000 with Firm X. At the end of January 2021, you contacted the FCA because you were unable to access your funds. In February 2021, the FCA communicated with you to advise that a criminal investigation had been commenced into the activities of Firm X, Mr A and Mr B known as 'Operation Y'. You were also informed that investigations of this type typically take over a year to conclude, with legal proceedings lasting even longer.
3. From February 2021 until present, you have continued to liaise with the FCA in order to receive updates regarding the investigation progress, which the FCA has been providing to you on an individual basis as well as by way of group updates to all impacted investors as and when it was in a position to do so.
4. On 31 March 2023, you submitted a complaint to the FCA under the Complaints Scheme about the length of time it was taking the FCA to conduct the investigation and that, allegedly, the FCA had been sending the same update letter every three months. The FCA did not uphold your complaint and concluded that: *"between 10 February 2021 and 19 December 2023, .. the Team was responsive to your emails and also had several phone calls with you when requested. I find that the Investigation Team made an effort to answer your questions as thoroughly as possible without breaching confidentiality restrictions."*

5. As you were unhappy with the FCA's decision on your complaint, you referred it to the Commissioner for review on the basis that the investigation into Firm X had begun in January 2021 with a court hearing taking place in April 2024 and yet you are still unable to access your investment.

My analysis

6. Like the FCA, the Commissioner is required to respect confidentiality. This means that sometimes they cannot report fully on the confidential material to which they have access. However, as part of the Complaints Scheme, they have access to all the FCA's complaints papers, including confidential material.
7. We sympathise with your situation and appreciate how stressful and frustrating it has been for you to not be able to access your funds this whole time. As the FCA has said, criminal investigations can take a long time to progress. However, having reviewed the file, the Commissioner can see that the FCA has acted reasonably with respect to the actions it took against the firm.
8. In addition, the Commissioner is satisfied that the FCA has kept you informed of the developments in the investigation as far as it could. For instance, in March 2021, in addition to the communications it had with you personally, the FCA updated all known investors about the investigation and requested more information about your investments. In August 2021, the FCA provided more details about the case, such as the fact that Firm X and its director were managing investments without authorisation and making false or misleading statements. All investors were also advised that it was unlikely that they would get all their money back due to a shortfall in funds. On 31 March 2023, all potential investors including yourself, were informed that the FCA investigation team was working through "*the vast amount of digital and financial material which need[ed] to be reviewed and analysed.*" Further, on 18 January 2024, you were advised that "*The first court appearance for [Mr A] has been listed for April 2024 at [Z] Magistrates' Court.*" Finally, as you are aware, a trial date has been set for August 2026. The FCA will keep you informed about the distribution of funds.

9. In view of the above, your complaint is not upheld.

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