



17 October 2024

Final report by the Complaints Commissioner

Complaint number 202400306

The complaint

1. On 7 July 2024 you submitted a complaint to my office about the FCA.

Your FCA complaint

2. You complained to the FCA about the fact that you (and circa 30,000 other customers) have not been able to access your funds since August 2023, following restrictions being placed on a financial services firm (Firm X) by the FCA.
3. Whilst you are not challenging this action in itself, you say you have been financially impacted by these restrictions *“due to the FCA not giving [Firm X] account holders any means to access their money. [Firm X] might have broken AML regulations, however, I have not and I can easily prove source of funds etc...There should be a way where account holders should be able to access their funds after AML checks either by the FCA or an independent [sic] organisation or person. It cannot be that if these FCA restrictions will not be lifted, that 30,000 account holders have lost all the money in these accounts.”*
4. You also submitted a description of a process through which you believe the FCA could assist consumers to gain access to their funds again, after proving source and legitimacy of funds through a sufficiently robust process.

What the regulator decided

5. The FCA did not uphold your complaint. In its Decision Letter dated 17 May 2024, it explained that *“the FCA are actively aware that the firms’ funds have been retained and will make proactive efforts to return these funds when the investigation reaches its next stage...The FCA is unable to authorise funds to*

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be withdrawn from the firm's accounts at the current stage of the investigation. In the interim, you may apply to the firm for your funds to be released earlier stating a financial hardship [my emphasis]. For more information, you may wish to consider contacting the firm directly.”

Why you are unhappy with the regulator’s decision

6. In your complaint to my office, you set out your concern that the FCA “has shown ZERO care to protect the 30,000 account holders who now have had no access to their own money since 8 August 2023.” You also say that the FCA has not kept you informed as to whether you will ever see your money again. This appears to relate to the general process of customers getting access to their funds again, once proving source of funds and complying with all relevant requirements.
7. You also told my Office that you have about £15,000 stuck in this account which was intended as a deposit on a house purchase, which has now fallen through. You do not appear to have told this to the FCA’s Supervision Hub or Complaints Team. Additionally, you informed my Office in your response to the questions in my preliminary report that you informed Firm X that you are experiencing financial difficulties due to a change in circumstances, and you asked that it returns your funds, as suggested by the FCA in its Decision Letter.
8. You are asking for the FCA to make it possible for consumers who can show that they obtained the money held in their accounts through legitimate means to gain access to their funds. You state that it has been over a year since your accounts got “locked” and it is not fair to consumers that they are unable to access their own money when they have not done anything wrong.

Outcome:

9. I do not uphold your complaint. The reasons for this are set out below.

Preliminary points

10. In order to be able to address your complaint, I have reviewed the points you made, and materials provided by the FCA which relate to the regulatory action in progress against Firm X.

11. Unfortunately, much of the information reviewed in the course of investigating your complaint is covered by s348 of the Financial Services and Markets Act (FSMA) 2000 and the FCA's confidentiality policies. As such, this report will not be able to cover much of the underlying material in detail. Whilst it is likely to be frustrating for complainants that I am unable to comment on confidential materials, it is important that my office has access to these in order to be able to fully investigate complaints and hold the regulators to account, where necessary.

My analysis

12. Whilst the underlying issues related to the regulatory action against Firm X are complex, your complaint and the remedy you are seeking are relatively straightforward. You want the FCA to provide a means through which you can prove your source of funds, and the legitimacy of the money stuck in your account with Firm X, so that you may get access to it again.
13. My review of the files has shown that, as set out to you in the FCA's Decision Letter, the FCA has been actively working on this case since August 2023. It is also true that consideration had been given and continues to be given to the return of client monies. The FCA is acutely aware of the fact that consumers who have not done anything wrong are being impacted by this situation and I have seen evidence of continuous efforts to move matters forward.
14. In order to better understand some of the background information I have seen, the applicable legislation and processes and the current status of the regulatory action, I asked the FCA a number of questions. The FCA has now provided a detailed response to these questions, although, for the reasons set out above, I am unable to share with you most of what I have been told.
15. Most of the information relating to the FCA's work is confidential, although there is some publicly available information on the FCA's website, the firm's entry on the FCA's Register, as well as in the decision of the Upper Tribunal and the website of Firm X itself.
16. The FCA must ensure that the legal and regulatory concerns it has about Firm X are resolved to a satisfactory standard in order to protect the public at large,

whilst being mindful of minimising the impact on those customers of Firm X who have done nothing wrong but are being affected by the situation.

17. It is unfortunate that the process is time consuming, however, I can confirm that based on what I have seen, the FCA is taking steps that seem reasonable in light of all the circumstances and that it is in fact conscious of the need to return customer funds as a matter of urgency. This topic is a feature of many of the documents I have seen.
18. In addition to the process of working to resolve the overall situation affecting all customers of Firm X, the FCA also took steps to ensure that Firm X informs its customers what process they should follow, should they be experiencing financial difficulties or hardship as a result of this situation. As of November 2023, Firm X has a message on its website informing customers that should they be experiencing difficulties or hardship, they should contact the firm for assistance. The FCA's Decision Letter also suggested that you contact Firm X if you are in financial difficulty. Based on the above, I find that the FCA is taking reasonable steps to reach a position where customer monies can be returned, and, additionally, it has also made Firm X put measures in place for those customers who are experiencing financial difficulties and/ or hardship. For these reasons, **I do not uphold** your complaint.
19. However, I **recommend** that the FCA continue progressing matters as quickly as possible and to continue monitoring the situation in relation to those in hardship. In my preliminary report, I also asked the FCA to provide me with an update about the progress of the case in one month's time. The FCA has confirmed that it will provide me with this update, and I will continue to monitor the situation.
20. In addition to the questions I asked of the FCA, I believed it would be useful for me to understand whether you had contacted Firm X, any time since August 2023, including since the date of the FCA's Decision Letter, in which it was suggested that you should contact the firm and apply to have your funds released earlier in the event of financial hardship.
21. In your response to my preliminary report, in addition to the update about your personal circumstances, you provided some new information about the steps

you have taken, following the advice of the FCA, which I am going to share with the FCA for its consideration. I **recommend** that the FCA make what it does with this information part of the update it will provide me with within one month of the date of this final report. As previously stated, I may not be able to share any of the information I receive from the FCA with you, but being able to receive confidential information enables me to hold the FCA accountable.

My decision

22. I find that the FCA is taking reasonable steps to resolve the concerns in relation to Firm X. Whilst it takes time to progress matters, for a number of different reasons, the FCA is mindful of the need to return customer funds as soon as possible. For this reason, I do not uphold your complaint, but I will continue to monitor the FCA's progress.

The Complaints Commissioner

Complaints Commissioner

17 October 2024