



28 March 2025

Final report by the Complaints Commissioner

Complaint number 202400406

Background

1. You and your husband hold self-invested personal pensions (“SIPPs”), managed by Firm Y. Firm X was a wholesale broker who provided custody services to Firm Y. The FCA began to have concerns about Firm X and placed restrictions on its activities in September 2023. On 13 October 2023, Firm X was placed into Special Administration and Joint Special Administrators (‘the administrators’) were appointed. At the time you complained the money held by the firm was currently frozen and awaiting action from the administrators before it can be distributed to those affected. You and your husband have been unable to access your pension funds and, as a result, have suffered anxiety and distress.

The complaint

2. On 30 August 2024, you and your husband submitted a complaint about the FCA’s oversight of Firm X to my office. You raised a number of comments and concerns which I summarise as follows:

Element One – You feel the FCA “put a financially secure company into insolvency through over-zealous actions”

Element Two - the FCA failed to communicate its concerns about Firm X to consumers, which prevented you from seeking alternative ‘homes’ for your funds whilst there was still time before the administration;

Element Three – You feel the FCA’s involvement in concluding Firm X’s administration is inadequate.

Preliminary points (if any)

3. Like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. 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.

My analysis

Element One

4. I will review your complaint on the basis of whether the FCA took appropriate action with respect to Firm X.
5. With respect to the FCA's engagement with the firm, it says the following:

“In December 2022 the FCA started to have concerns with the firm and worked with the firm to resolve these issues. This resulted in the firm agreeing to voluntary restrictions which were imposed on 25 May 2023; this included not onboarding any new clients and paying connected parties. The firm were still authorised to conduct regulated activities for existing clients which included providing trading and custody services.

As the FCA continued to work with the firm, additional concerns were discovered as the firm could not adequately demonstrate it had sufficient systems and controls in place to protect its clients' money and assets, and there were also concerns the firm was connected to financial crime.

This led to the FCA imposing additional restrictions on the firm, as set out in the First Supervisory Notice dated 15 September 2023, preventing them from dissipating assets. The firm subsequently entered Special Administration on 13 October 2023. The FCA webpage below contains several links and a frequently asked questions section to provide more

information on the [https://www.fca.org.uk/news/news-stories/restrictions-placed- Firm X-marketslimited-and-firm-enters-special-administration#expandable1292191](https://www.fca.org.uk/news/news-stories/restrictions-placed-Firm-X-marketslimited-and-firm-enters-special-administration#expandable1292191).”

6. For the confidentiality reasons mentioned above, I am unable to provide more information about the circumstances surrounding Firm X but I can reassure you that, in my view, the FCA gave a proper consideration to the potential ramifications its Supervisory Notice could have on the affected consumers, and, in particular, it has said, “..the FCA has determined that it was appropriate in the interest of protecting consumers to stop the firm from carrying out regulated activities.” I agree. Had the FCA not taken this action, the impact on the consumers may have been far greater and resulted in significant financial losses.
7. In view of the above, I consider that the FCA has acted reasonably and took appropriate action with respect to the firm. I do not consider that the FCA’s actions with respect to the firm have caused the detriment you have suffered. Had the FCA not intervened to impose restrictions on the firm, your assets may have been at greater risk than they already were. Whilst it is regrettable that you are currently unable to access your assets due to the administration of the firm, that is not as a result of the FCA’s failure to supervise Firm X. I understand you are of the view that the firm did nothing wrong, however, you have not provided any evidence to support your allegation whereas the FCA file and its communications to investors shows that there were serious concerns about the firm..
8. For these reasons, I do not uphold this element of your complaint.

Element Two

9. I understand that you would have liked to have been notified of the FCA concerns regarding Firm X prior to it taking any action against the firm to enable you to protect your assets. However, due to confidentiality restrictions, the FCA could not share its concerns about Firm X with the public, nor the details of its engagement with the firm when it first became aware of them in December 2022. As soon as it was able to do so, the FCA made a public announcement that Firm X had been served with a First Supervisory Notice.

10. Any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals. The FCA has disclosed previously that it does not usually make public the fact that it is investigating a firm or individual. This is partly to protect the effectiveness of any investigation, as publicity might encourage people to destroy or hide evidence, and partly because announcing an FCA investigation can damage reputations of potentially innocent parties or firms that are able to rectify issues it has identified. It is important to note that just because the FCA is investigating a firm, it does not necessarily mean that the firm will be found to have breached the rules. As soon as it was able to do so, the FCA made a public announcement that Firm X had been served with a First Supervisory Notice. Therefore, I do not uphold your complaint.

Element Three

11. You feel the administration process is taking too long and you are concerned that you have not been able to access your pensions -which are a major source of your income - for a prolonged period of time. You raised this with the FCA but it told you in its decision letter that it is not *"the FCA's role to conduct the administration process"*; instead, *"[t]he administration process and release of funds is being conducted by [the administrators], a firm external to the FCA."*
12. You are not satisfied with this answer and in response to the FCA decision letter you have said, "We continue to dispute that the FCA has not been involved in the administration and distribution of assets to creditors. We have certainly been told by our wealth managers that every step has been closely supervised by the FCA and that it has continued to ask for more and more demands and requirements to be met...." The FCA does not agree that this is the case, and you have not provided evidence to support such an assertion either in your original complaint or in your comments to my preliminary report.
13. Whilst it is not the FCA's role to conduct the administration process, to the extent that the firm remains in existence and remains regulated, the FCA has certain responsibilities and powers with respect to the firm. In addition, it also engages with the administrators. I invited the FCA to provide an explanation of

the full extent of its engagement with administrators generally and in this instance in response to this preliminary report.

14. After a considerable delay, the FCA has responded to this (please see the appendix).
15. Having reviewed the entire FCA response, I am satisfied that the FCA is working with the administrators appropriately in the circumstances. I have included a redacted FCA response in the appendix which provides more information which you may find useful. It contains as much information as I am able to divulge subject to s348 restrictions and other confidentiality considerations.
16. Therefore, I do not uphold this complaint.

The Complaints Commissioner

Complaints Commissioner

28 March 2025

Appendix

FCA Response (redacted)

1. “In response to your queries on the FCA’s involvement and influence on the insolvency process, ...the FCA has regular engagement with HMG (both HMT and InsS) on a wide range of resolution policy and operational matters.
2. Once a firm enters administration it is subject to insolvency law and – however when a firm enters administration it is still subject to FSMA rules which grants the FCA some powers. The topic of exactly how the FCA is able to influence or expedite matters has been an ongoing topic of discussion in Supervision as part of the Investment Bank (Amendment of Definition) and Special Administration (Amendment) Regulations 2017 (“IBSAR”), following the statutory review conducted by Peter Bloxham (the Bloxham Review), which recommended the FCA and the Treasury to empower the FCA to operate a more effective regime to protect client assets in going concern mode and also on the failure of an investment firm.
3. The finalised guidance for insolvency practitioners on how to approach regulated firms was published in 2021 by the FCA, which sets out our expectations of insolvency practitioners when a firm enters administration. However the administration in this case is governed by the IBSAR framework, and it is not within the FCA’s remit to seek to amend or influence these regulations. The ownership of the insolvency legislation sits with the Insolvency Service, which is an executive agency of the Department for Business and Trade. In relation to the comments made about financial difficulties customers face as a resulting of the administration process, JSA’s will often consider applications for hardship payments, which are assessed on a case-by-case basis.

The FCA’s work with [the administrator]

4. When appointed as the administrators of Firm X in October 2023, one of their main objectives was the speedy return of client monies. However due to Firm X’s failure to maintain accurate books and records, [the administrator] had to perform a reconciliation of client assets and money, which involved ensuring that assets and money held by the firm match client records. During this time, it

would have been unclear whether or not there was a shortfall in client money. Consequently, no money could be released until [the administrator] concluded the reconciliation. As touched on above, during this time [the administrator] were considering applications to make hardship payments, which were assessed on a case-by-case basis.

[The administrator] has continued to proactively communicate updates to the FCA with regular progress reports, requesting feedback and comments prior to publication and has made regular SUP 15 updates where relevant.

5.we are satisfied that the administrators were not delaying the processing and distribution of assets, as the delays were due to challenges outside of their control. This has mainly been due to the state of affairs of the firm when it was first taken over by the administrators, which we appreciate can be typical of firms who have a requirement imposed on them and/or are placed in special administration. As of November 2024, 80% of client assets had been returned with 20% retained for contingencies – however issues remained with the reconciliation of client monies due to a third party claiming its Title Transfer Collateral Agreement (TTCA) money held with Firm X should be treated as client money – which has contributed to further unavoidable delays.....
..Despite this, the administrators aim to complete the special administration by mid-2025. The FSCS are also working closely with [the administrator] to establish their position in these matters and what they can offer affected consumers”.