



23 October 2025

Final report by the Complaints Commissioner

Complaint number 202500280

The complaint

1. In September 2023, you submitted a complaint to the Office of the Complaints Commissioner (the “**OCC**”) that the Financial Conduct Authority (the “**FCA**”) had, among other things, failed to supervise an FCA-regulated forex trading broker (“**Firm X**”). In December 2023, my predecessor issued a final report (the “**December 2023 Final Report**”) which did not uphold this element of your complaint (and made other findings in respect of other elements of your complaint).
2. On 29 May 2025, you submitted a complaint to the FCA Supervision Hub that the FCA has repeatedly failed to act on your intelligence about Firm X. On 2 June 2025, the Supervision Hub provided you with contact details for the FCA Complaints team to make this complaint, which you then did the same day. On 9 June 2025, the FCA Complaints team issued you with a Decision Letter, which stated that they could not investigate this complaint because they considered that the FCA had already responded adequately to the same or a substantially similar complaint from you previously (per paragraph 2.11(c) of the Complaints Scheme).
3. On 9 June 2025, you submitted a further complaint to the OCC about the FCA. This complaint broadly comprised the following main themes:
 - a. **Element one:** You allege that the FCA has failed to supervise Firm X, despite you providing intelligence about Firm X’s alleged misconduct to the FCA for several years.

Outcome: I have reviewed the steps taken by the FCA following receipt of your intelligence. Where you provided intelligence about Firm X to the

Supervision Hub, this Team logged your intelligence and shared it with the staff who supervise Firm X. The supervisory staff then considered your intelligence and decided how to treat it. Where you asked the FCA to take action in respect of the Financial Ombudsman Service's (the "**FOS**") decision concerning your complaint to it about Firm X, the FCA clarified its remit in relation to the FOS and explained your remaining options. Additionally, the FCA Supervision Team has conducted a holistic assessment of Firm X (described further below) and made a decision based this assessment. I consider that these FCA Teams' steps and decisions were reasonable. I **do not uphold** this element of your complaint.

- b. **Element two:** You allege that the FCA will not share with you specific details as to how it has treated your intelligence about Firm X and how it supervises the firm on the basis of section 348 of the Financial Services and Markets Act 2000 ("**FSMA**"), despite you requesting such information as well as making a Data Subject Access Request (a "**DSAR**"). You consider this to be contrary to the FCA's proposals for greater transparency to consumers set out in the CP24/2 – Consultation on Transparency & Accountability and FCA's PS25/5 – Consumer Duty Policy Statement.

Outcome: I agree with the FCA that its information as to how it has treated your intelligence about Firm X and how it supervises Firm X is confidential under section 348 FSMA and/or the FCA's approach to publicising information about regulated firms and individuals (who also have legal protections). I also note that the FCA's proposals for greater transparency to consumers described in its CP24/2 and PS25/5 are expressed to be subject to section 348 FSMA. I consider the FCA's approach to responding to your requests for confidential information to be reasonable.

I **do not uphold** your complaint that the FCA is not entitled to withhold information about how it has treated your intelligence and how it supervises Firm X.

I note separately that, in the context of your request for the above-described types of information, you also asked the Supervision Hub to

disclose your “D-SAR (Data Subject Access Request) file under the UK GDPR and Data Protection Act 2018” (which I understand to mean a copy of your personal data held by the FCA). I understand that the Supervision Hub initially missed this element of your request - i.e. to provide you with a copy of the information it holds about you (as opposed to information it holds about its treatment of your intelligence about Firm X.) I understand that the FCA later identified this and instructed the Supervision Hub to action your DSAR. I also understand that you have recently been (and may still be) in communication with the FCA’s Information Disclosure Team regarding your DSAR.

If you are unhappy with how the FCA has previously or is currently treating your request for a copy of your personal data under a DSAR, then I consider that the Information Commissioner’s Office (the “**ICO**”) is the most appropriate authority to assist you on that point.

Background

4. In September 2020, your account with Firm X was placed on margin call as the equity fell below the margin requirements. Despite your efforts to fund your account to avoid your open positions being closed, most of these attempts did not succeed. Additionally, the funds you were able to deposit did not clear that business day. Firm X closed some of your positions to reduce your exposure to adverse market movements. You incurred losses from this.
5. You complained to Firm X, and to the FOS and the FCA about Firm X. Firm X maintained that it was right to close your positions. The FCA informed you that it logged your information about Firm X. In September 2022, the FOS concluded that:
 - a. Firm X was not responsible for the failed attempts to fund your account.
 - b. However, Firm X should not have previously upgraded your status from a retail client to a professional client on the basis of your self-certification and that you were exposed to a greater risk of financial loss as a result.
6. The FOS decided that Firm X should compensate you by calculating how your losses would have been reduced if you had been trading as a retail client, rather than professional client, at the time. The FOS provided a calculation

methodology, as opposed to specifying a precise sum, as the FOS considered that the latter would require a reworking of your account which it believed involved tens of thousands of trades and several hundred pages of statements.

7. I understand that Firm X has calculated the compensation it considers due in line with the FOS' decision, engaged an independent FCA-authorised third party ("**Firm Y**") to assess if its calculation complied with the FOS' methodology (which Firm Y considered it did), and paid you this sum. However, you do not agree that the sum is sufficient or in line with the FOS' decision. The FOS has reviewed Firm X's calculation methodology, considers that it complies with the FOS' decision and has informed you that you have reached the end of the complaints process and it cannot assist you further.
8. You disagree with the views of Firm X, Firm Y and the FOS regarding Firm X's compliance with the FOS' decision. You consider that your option to resolve this issue is to apply to the English Court to enforce the FOS' decision. You believe or have been informed that you need to file a Form N322A with the County Court to do so. However, this court form requires applicants to set out a specific sum that has been awarded by the FOS, and the FOS' decision in your case sets out a compensation methodology but not a sum.

Preliminary points

9. As Complaints Commissioner, my role is to provide an independent assessment of complaints against the FCA (and the other financial services regulators named in the [Complaints Scheme](#)) which have been referred to me. It is not within my powers to investigate complaints related to any other organisations, such as complaints about the FOS' processes or decisions.
10. As mentioned in paragraph 8 above, you have told the OCC that you are considering filing a Form N322A with the aim of obtaining a decision from the English Court as to whether Firm X has complied the FOS' decision. (As mentioned above, the FOS has checked Firm X's calculations and considers them to be compliant with the FOS' decision.) You may want to consider or take advice: (i) whether there is an alternative court process available to you - i.e. one that does not require you to set out a specific compensation sum (such as a "CPR 8" claim); and (ii) if so, what are the associated court fees and other

possible costs. The most appropriate persons or organisations to provide advice on the above points and/or the availability of any other options are an English lawyer who specialises in litigation or the Citizens Advice Bureau. If neither of these options are available to you, you may (for example) wish to contact the [Enquiries team at the Central London County Court](#) and/or the [Administrative Court](#) to ask these questions.

11. The Complaints Scheme (in line with section 87(1) of the Financial Services Act 2012) provides that, even where a complaint may be eligible, it will not be investigated where the FCA or OCC reasonably considers that it would be better dealt with in another way (such as by the Court or another regulator). Parliament has allocated responsibility to investigate compliance with DSARs to the ICO and provided the ICO with extensive powers for this purpose. In view of this, the OCC does not investigate whether or not the FCA has complied with a DSAR and, instead, informs complainants that the OCC considers that the ICO is the most appropriate organisation to consider such points.

Analysis

Element one: You allege that the FCA has failed to supervise Firm X, despite you providing intelligence about Firm X's alleged misconduct to the FCA for several years

12. I agree with the FCA Complaints team that its Decision Letter from your 2023 complaint to and the December 2023 Final Report have already addressed this element of your complaint to the extent it relates to your communications with the FCA prior to the publication of the December 2023 Final Report.
13. I also agree with the FCA Complaints team that your current complaint essentially revives your previous complaint with reference to different underlying intelligence about Firm X. However, I considered that your current complaint, to the extent it relates to intelligence you provided to the FCA after publication of the December 2023 Final Report, should have been investigated by the FCA Complaints Team. Accordingly, the OCC made enquiries of the FCA, and I have reviewed the FCA's files relating to this later period.
14. While the FCA Complaints Team did not investigate your complaint or consider the matter further, the FCA Supervision Team had nevertheless reviewed the

information you provided and conducted a holistic assessment of Firm X (including as to its compliance with the FOS' decision and its broader conduct). Here, the Supervision Team, among other things, (i) considered the intelligence you provided to the FCA over the years and (ii) made internal and external enquiries. The Supervision Team then made a decision based on its assessment.

15. Prior to this, where you:
 - a. provided pieces of intelligence about Firm X to the Supervision Hub, the Supervision Hub referred the intelligence to the FCA staff supervising Firm X, who then reviewed it and made a decision about how to treat it; and
 - b. asked the FCA to take action in respect of the FOS' decision concerning Firm X, the FCA clarified its remit in relation to the FOS and explained your remaining options.
16. I consider the steps taken and decisions made by the various FCA Teams to be reasonable. This means that I do not consider that the FCA's actions and decisions were "*so unreasonable that no reasonable authority could ever*" have decided to do the same (which is the "reasonableness test" applied in English public law).
17. On a more general level, it does not follow that the FCA has failed to supervise regulated firms (or that the FCA's oversight capacity and integrity of UK-regulated firms are at risk) simply because a consumer is not alerted to what action (if any) the FCA has taken based on the consumer's intelligence and/or has not achieved their desired outcome from providing intelligence to the FCA.
18. Relatedly, you included in your complaint to the OCC an allegation that the FCA and the FOS are coordinating to avoid issuing you with a final and complete FOS decision. This allegation was set out less clearly in your correspondence with the FCA Supervision Hub and FCA Complaints team, in which you asserted that the FCA and the FOS had failed to act decisively.
19. To clarify, the FOS has issued you with a final and complete decision; it just has not set out a specific compensation sum. I note that you consider that this form of FOS award creates ambiguity, places a disproportionate burden on you to

verify or replicate the methodology (such as by incurring the expense of engaging an expert) and without access to all of the underlying data, and delays enforcement of the award. As set out in paragraphs 9-10 above, it is not within my powers (or the FCA's powers) to investigate or opine on complaints about the FOS' decisions or actions.

20. I have reviewed the FCA's correspondence with the FOS relating to your concerns about Firm X's compliance with the FOS' decision and Firm Y's position on this. I have seen no evidence of collusion between these organisations to deprive you of compensation by Firm X or prevent you from seeking assistance from the English Court. More generally, I have seen no evidence that these organisations have failed to act impartially in relation to your complaints.

21. Accordingly, I **do not uphold** this element of your complaint.

Element two: you allege that the FCA will not share with you specific details as to how it has treated your intelligence about Firm X and how it supervises the firm on the basis of section 348 FSMA, despite you requesting such information as well as making a DSAR. You consider this to be contrary to the FCA's proposals for greater transparency to consumers set out in the CP24/2 – Consultation on Transparency & Accountability and FCA's PS25/5 – Consumer Duty Policy Statement.

22. Under [section 348 FSMA](#), there are restrictions on the FCA's ability to share certain information about firms (like non-public information about their business or other affairs, that has been received by the FCA for the purpose/in discharge of its functions). This provision, to which both the FCA and I are subject, makes it a criminal offence to disclose such information. The FCA has published a [webpage](#) which provides some guidance about the effect of these restrictions on what information it can and cannot share. In compliance with section 348 FSMA and the FCA's general policies on confidentiality, the FCA does not usually share with consumers details about how it has treated intelligence provided to it about regulated firms (i.e. whether or not the FCA has taken any regulatory action against a regulated firm on the basis of that intelligence).

23. I agree with the FCA that the information you requested about its treatment of your intelligence about Firm X and its supervision of Firm X is confidential under section 348 FSMA and/or its general policies on confidentiality. You have explained to the OCC that the FCA's refusal to provide you with this information (or its delay in doing so) is hindering your ability to provide evidence, cross-examine or challenge Firm X in overseas litigation which you have commenced against it. While I have sympathy for your position, I consider the FCA's decision not to disclose such information to you to be reasonable.
24. I refer to the December 2023 Final Report for further explanation of the FCA's confidentiality requirements and their effect. However, I will add that section 348 FSMA was set by the UK Parliament and is still in force.
25. I note that you consider section 348 FSMA to be inconsistent with the FCA's proposals for greater transparency to consumers described in the FCA's Consultation Paper "CP24/2" and Policy Statement "PS25/5". To clarify, law set by Parliament takes precedence over rules and policies set by the FCA (including its duties to consumers). As such, section 348 FSMA takes precedence over the FCA's proposals for greater transparency described in CP24/2 and PS25/5. I have seen that these FCA papers do explain this point. Additionally, the FCA rules set out in Chapter 4 of the Enforcement Guide (which CP24/2 and PS25/5 concerned) provided - both before and after these FCA papers were published - that the FCA will not publicise whether or not it is investigating a firm except in narrow circumstances.
26. You have also informed me that you consider that section 348 FSMA and the FCA's confidentiality policies impair fair scrutiny of complaints. To clarify, the purpose of the OCC is to scrutinise complaints about the FCA (and other financial services regulators) on complainants' behalf. I have powers to review the FCA's case file (including matters which are subject to section 348 FSMA), make additional enquiries and document requests of the FCA, and provide an impartial finding as to whether I consider the FCA to have acted reasonably or not. I have taken these steps in relation to your complaint about the FCA, and I consider the FCA to have acted reasonably. Furthermore, where I make findings about the FCA's actions, the FCA has to respond publicly to them.

27. Accordingly, I **do not uphold** your complaint that the FCA is not entitled to withhold information about how it has treated your intelligence and how it supervises Firm X.
28. Separately, alongside your request for the above-described types of information, you also submitted a DSAR to the Supervision Hub. I understand that:
- a. the Supervision Hub initially missed this element of your request (i.e. to provide you with a copy of your personal data). For the avoidance of doubt, this concerns data the FCA holds about you, as opposed to data it holds about how it treated Firm X based on your intelligence;
 - b. the FCA later identified this and instructed the Supervision Hub to action your DSAR; and
 - c. you have recently been (and may still be) in communication with the FCA's Information Disclosure Team regarding your DSAR.
29. If you are unhappy with how the FCA has previously or is currently treating your request for a copy of your personal data under a DSAR, then I consider that the ICO is the most appropriate authority to assist you.

Conclusions

30. For the reasons set out above, I **do not** uphold your complaint regarding the FCA's supervision of Firm X and decision not to share with you information about its treatment of your intelligence or how it supervises Firm X. I appreciate that this is not the outcome you were hoping for, but I hope that this report provides clarity on your points of contention with the FCA.
31. I have also informed you of your options if you remain unhappy regarding Firm X's compliance with the FOS' decision and with the FCA's treatment of your request for a copy of your personal data.

The Complaints Commissioner

Complaints Commissioner

23 October 2025