Office of the Complaints Commissioner
Alliance House
12 Caxton Street
London
SW1H 0QS

Tel: 020 4599 8333
E-mail: info@frccommissioner.org.uk
www.frccommissioner.org.uk

Complaints Commissioner

10 July 2026

Final report by the Complaints Commissioner

Complaint number 202500668

The complaint

1. On 13 February 2026, you submitted a complaint to my office about the FCA's involvement in matters connected to BetIndex Limited ("BetIndex") and its product, online platform Football Index (''Football Index'').

Background

2. You and other complainants first submitted a complaint to me about this matter in 2024, and I issued a report on those complaints on 16 September 2024 reference 202300426 and 202300562[1]. It is not my intention to repeat the report here in its entirety. I will note by way of background that the substance of the issue was that complainants argued that the FCA failed to assess properly whether Football Index's "shares" and dividend-style returns brought it within the regulatory perimeter for investments, among other things. I concluded that the FCA should have acted more decisively and transparently in its engagement with the Gambling Commission, although I stopped short of definitively ruling whether Football Index legally fell within the FCA's regulatory perimeter. It was the FCA's view that it did not.

3. I noted however, that the FCA itself accepted that the product offered by BetIndex was "complex" and that the "statutory dividing lines between the two regimes can give rise to legal uncertainty." Consequently, it concerned me that there appears to still very much be a grey area which potentially leaves the door open to future players to enter the market and take advantage of the lacuna and

[1] https://frccommissioner.org.uk/wp-content/uploads/202300562-and-202300426-Issued-16-September-2024.-Published-03-October-2024-1.pdf

establish a business that could result in further consumer harm and needs to be addressed. For this reason, I recommended that the FCA to refer this matter to HM Treasury with a view to clarifying legislation which is relevant for consumer protection.

4. You have subsequently submitted another complaint related to the same subject matter, stating that in your view the FCA are "the regulatory body responsible for sports and non financial spread bets" and therefore the FCA should accept it has regulatory responsibility over BetIndex.

5. The FCA declined to review the complaint in its decision letter dated 5 December 2025 on the basis that "*Paragraph 2.11 (c) of the Complaints Scheme provides that we will not investigate a complaint that we reasonably consider we have already responded adequately to the same or a substantially similar complaint from you on a previous occasion. Your complaint relates to the regulatory oversight responsibility of BetIndex and whether this should have sat with the FCA. This is not something we will investigate under the Complaints Scheme because we have already responded to your substantially similar complaint, issuing our decision in 2023. The complaint was then also considered by the Financial Regulators Complaints Commissioner who issued their Final Report in September 2024"*.

6. The FCA nevertheless provided you with a general response on some of the questions you raised in connection with this matter.

7. You were not satisfied with the response and referred your complaint to me. I have summarised your complaint as follows:

8. **Element One**: You point to a Competition and Markets Authority (CMA) report which in your view shows that the FCA are "the regulatory body responsible for sports and non financial spread bets" and therefore have regulatory responsibility for BetIndex.

   Outcome: Not upheld. The FCA was correct to exclude your complaint pursuant to paragraph 2.11(c). and I do not uphold your complaint that it should not have been excluded.

9. **Element Two:** There has been no progress with respect to the recommendation made in paragraph 51 of report 202300426 and 202300562 that the FCA engage with HM Treasury and other stakeholders with a view to clarifying legislation.

Outcome: Not upheld. The FCA has implemented my recommendation.

Analysis

Element One

You point to a CMA report which in your view shows that the FCA are "the regulatory body responsible for sports and non financial spread bets" and therefore have regulatory responsibility for BetIndex.

10. The evidence you refer to is an extract from a CMA report which you have highlighted for ease of reference:

2.16 Spread betting providers (including sports spread betting providers) which carry on regulated activities within the FCA perimeter of regulation must obtain authorisation from the FCA and adhere to its regulations.

2.17 The application process for an FCA licence involves the FCA considering the adequacy of both the financial and non-financial resources of the applicant. This includes reviewing the feasibility of business plans and considering the potential for any consumer harm. The FCA told us that it has a statutory deadline of six months to approve complete applications, and 12 months to determine incomplete applications.

2.18 In addition to obtaining the relevant regulatory authorisation from the FCA, authorised (that is, licensed) online sports spread betting firms must also comply with the FCA's regulations on an ongoing basis. This includes a requirement for firms to protect and hold customers' money segregated in a separate client money bank account under the FCA's Client Assets Sourcebook regime, and to report on this segregation on a monthly basis.

11. Your position appears to be that, although the FCA stated in 2024, when considering your complaint, that it did not regulate BetIndex or its online platform, Football Index, it has indicated to the CMA that it does in fact regulate

such products. You say, “Not once did the FCA confirm to the CMA that sports spread bets are not within their regulatory remit.”

12. I am afraid I do not agree with you. The FCA explained to you in its decision letter dated 5 December 2025 that “*Following a 1991 first instance court judgment on the financial services legislation which predated FSMA, the FCA (and the FSA before) has taken the view that some sports and non-financial spread bets may fall within our regulatory perimeter, where the instrument meets the conditions for being a CFD under Article 85 of the RAO.*

13. *However, sports and non-financial betting products that do not meet these conditions will not be specified investments within the FCA’s perimeter. Such products may fall within the ambit of the Gambling Commission. The Football Index product, offered by BetIndex, did not meet the conditions for being a CFD under Article 85 of the RAO. In particular, the product was not a CFD under Article 85(a), nor did the payments under the arrangements relate to fluctuations in respect of the value or price of property, or an index or other factor designated for that purpose in the contract, as set out in Article 85(b) (i) and (ii). Consequently, BetIndex was not engaging in any regulated activities and therefore was not authorised by us. BetIndex was licensed by the Gambling Commission*.”

14. The FCA’s response makes it clear that some -**but not all** (my emphasis) sports and non-financial spread bets may fall within its perimeter, depending on whether they meet the conditions for being a CFD under Article 85 of the RAO, however in its view the BetIndex product does not. The extracts from the CMA report on which you rely are consistent with that position and do not support your contention that the FCA is the regulatory body responsible for all such products.

15. I appreciate that you continue to maintain that the BetIndex product falls within the FCA’s regulatory perimeter. However, that issue was considered in my earlier report (202300426 and 202300562). I agree with the FCA that there are no grounds to revisit this matter. Accordingly, this aspect of your complaint is excluded under the Complaints Scheme, pursuant to paragraph 2.11(c) and I do not uphold your complaint that it should not be.

Element Two

There has been no progress with respect to recommendation made in paragraph 51 of report 202300426 and 202300562 that the FCA engage with HM Treasury and other stakeholders with a view to clarifying legislation.

16. In my Final Report issued 16 September 2024 I noted that the FCA itself accepted that that the product offered by BetIndex was “complex” and that the “statutory dividing lines between the two regimes can give rise to legal uncertainty.” Consequently, it concerned me that there appears to still very much be a grey area which potentially leaves the door open to future players to enter the market and take advantage of the lacuna and establish a business that could result in further consumer harm and needs to be addressed. For this reason, I recommended that the FCA refer this matter to HM Treasury with a view to clarifying legislation which is relevant for consumer protection.

17. As you are aware, the FCA did so. The FCA has explained:

18. *“First, the issue was raised at the HM Treasury and FCA Regulatory Perimeter Meeting held on 24 March 2025 between the FCA Chief Executive, Nikhil Rathi, and the Economic Secretary to HM Treasury, Emma Reynolds. The published minutes*[2] *record the following:*

    4) The CEO and the EST agreed that it is critical that the Treasury and FCA act quickly to adjust the perimeter where there is a clear case for doing so, and that the FCA and Treasury should communicate clearly with the public, parliament and industry on actions being taken.

    5) The CEO raised the following areas for consideration and clarification:

    Non-Financial Spread Betting

    6) The CEO noted that spread betting products which are based on non-financial indexes, such as sports or political performance, are not within scope of the FCA’s perimeter though there are some calls for them to be within the

[2] https://www.gov.uk/government/publications/hm-treasury-and-financial-conduct-authority-regulatory-perimeter-meeting-march-2025/hm-treasury-and-financial-conduct-authority-regulatory-perimeter-meeting-march-2025

perimeter. He noted that consumers must be aware of the risks when purchasing such unregulated products. The EST agreed that the government and regulators should work together to ensure consumers understand the regulatory position and associated risks of these products and it should not be assumed that all such products should be regulated.

19. *Secondly, on 26 March 2026, the FCA published the latest version of its Perimeter Report[3], which addresses sports and other non-financial spread betting and explains the FCA's view of the current regulatory boundary:*

20. *We consider financial spread betting falls within our regulatory perimeter. However, we believe that sports spread betting could be better served by a distinct framework designed specifically to address the risks from gambling activity and ensure appropriate consumer protections.*

21. *Financial spread bets may be placed for investment purposes and can fall within MiFID regulation. By contrast, sports spread bets involve sporting or political outcomes and cannot be treated as MiFID instruments. Our regulatory framework is designed for investment-related risks and does not fully address the risks posed by non-financial betting markets.*

22. *Consumers should not assume that sports or other non-financial betting products are covered by financial compensation schemes or other financial regulatory safeguards. With new products entering the market, clarity from the Treasury on the appropriate regulatory boundary and responsibilities would help ensure consumers receive suitable protections*.

23. *In summary, since 16 September 2024, the FCA has both raised this issue directly with HM Treasury and set out its position publicly in the Perimeter Report. However, as only Parliament can change legislation, it is for HM Treasury to act on this issue*".

24. You accept that the FCA undertook the actions above, however, in your view both the FCA and Treasury have taken insufficient actions to progress this matter, and it is currently unresolved.

[3] https://www.fca.org.uk/publications/corporate-documents/fca-perimeter-report

25. You say you have approached HM Treasury which wrote to you in January 2026 to say *"HM Treasury is also aware of the Complaints Commissioner's recommendation that it should consider clarifying relevant legislation. It is considering whether any action is necessary. HM Treasury acknowledges that you have stated your intention to refer this issue to the Parliamentary and Health Services Ombudsman".* I note you have raised this with HM Treasury on multiple occasions since and you have copied me in on those letters. Since then, you say you have lodged a complaint with the Parliamentary and Health Services Ombudsman which remains ongoing. Complaints against third parties such as HM Treasury do not fall within my remit under the Complaints Scheme. I therefore note your comments regarding HM Treasury but make no further observation.

26. You consider that the FCA has not taken sufficient steps to pursue this issue with HM Treasury. In particular, while you acknowledge that the FCA raised the matter previously, you consider it should have followed this up again, particularly given the passage of time without any apparent resolution, and you consider that I should now recommend that it do so. I have carefully considered your concerns. However, I do not consider it unreasonable for the FCA to have concluded that, having raised the matter with HM Treasury which has confirmed to you that it is considering whether any further action was necessary, the matter is already before the proper decision-maker and neither the FCA or I can direct HM Treasury to legislate or reconsider matters.

27. For the reasons above, I do not uphold your complaint. The FCA has implemented my recommendation, and I do not consider any further remedy is necessary.

28. I note you are not happy with my decision and that you continue to raise dissatisfaction that matters have not been resolved, however, you have not provided any new evidence or information that would require me to reconsider the conclusions reached in my report.

29. As I have explained above, the matters you have raised regarding changes to the relevant framework are now a matter for HM Treasury. I am confident that this issue has been raised with them multiple times. Actions or inactions of HM Treasury fall outside my remit, and I am unable to take any further action in relation to them.

The Complaints Commissioner

Complaints Commissioner
10 July 2026