

13<sup>th</sup> March 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00046**

Thank you for your emails of 21<sup>st</sup> January and 23<sup>rd</sup> February 2015.

As the rules of the scheme under which I consider complaints can be found on our website at [www.fsc.gov.uk](http://www.fsc.gov.uk), I shall not repeat them here.

**Your complaint**

From your email I understand that you are unhappy with the outcome of the FCA's investigation into your complaint. You believe the FCA should have investigated your complaint that it had failed to enforce the provisions of paragraphs 20.2.50 to 20.2.60 of its COBS handbook) and that both the FCA and Firm L are not therefore treating customers fairly. You are also disappointed that rather than providing you with a full explanation of what action the FCA did or did not take it chose not to investigate your complaint by relying upon section 3.5 of the Complaints Scheme.

**My position**

In considering this case, I have carefully reviewed both your complaint and the regulator's arguments for not considering it under the scheme. From your correspondence with the regulator, I understand that you are unhappy with Firm L's decision to limit access to and subsequently close its with profits fund. You add that given the limited communications Firm L has made with consumers you consider that the FCA has not enforced appropriately the provisions in its COBS handbook.

From the papers presented to me it is clear that the Complaints Team contacted Firm L's Supervision Team to establish what contact it had had with Firm L in relation to the suspension/closure of its with profits fund. Whilst the confidentiality restrictions contained in Section 348 of the Financial Services and Markets Act 2000<sup>1</sup> prevent me from commenting in greater detail on the nature and extent of the FCA's contact with Firm L, what I can say is that Firm L and the FCA had been in contact about this issue for some time. It is also clear that the action that Firm L had taken and was intending to take had been fully disclosed to the FCA.

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<sup>1</sup> as amended by provisions contained within ss16 to 24 of Part 2 of the Financial Services Act 2012

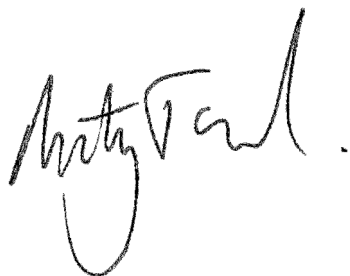
The papers presented to me show that, as a result of its correspondence with Firm L, the FCA reviewed Firm L's proposals and made decisions and judgements (which to me do not appear unreasonable) based upon the information Firm L had provided to it. These decisions included consideration of communications with policyholders.

Whilst I agree with the FCA's decision that paragraph 3.5 of the Complaints Scheme does prevent consideration of complaints such as yours, I feel that the FCA should have provided a better explanation of why it reached that view, particularly as the FCA's complaint investigation file showed that it had made substantial enquiries of Firm L's Supervision Team to establish whether it had considered if and how Firm L had complied with the provisions of COBS 20.2.50 to COBS 20.2.60.

In conclusion, although I feel that the FCA could (and indeed should) have provided you with a better explanation of the action it had taken (from a general Supervision perspective and when investigating your complaint), I am satisfied that the FCA was enforcing the provisions of its COBS handbook appropriately.

I appreciate that you will be disappointed with my decision but hope that you will understand why I have reached it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend  
Complaints Commissioner