

15<sup>th</sup> December 2015

Dear Complainant

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00069**

You contacted us on 5<sup>th</sup> October and asked us to review the Financial Conduct Authority (FCA)'s investigation. I have now completed my review of the FCA's investigation.

**How the complaints scheme works**

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

You can find full details of how I deal with complaints at [www.fsc.gov.uk](http://www.fsc.gov.uk). If you need further information, or information in a special format, please contact my office at [complaintscommissioner@fsc.gov.uk](mailto:complaintscommissioner@fsc.gov.uk), or telephone 020 7562 5530, and we will do our best to help.

**What we have done since receiving your complaint**

We have now reviewed all the papers you and the regulator have sent us. My decision on your complaint is explained below.

**Your complaint**

Your complaint can be split into two parts.

1. You are unhappy with the way the FCA treated a Form C from your previous employer. You feel that the FCA incorrectly treated the notification as a qualified withdrawal rather than a simple termination of employment. You add that, although you raised this with the FCA, and provided it with further details of the agreement you had reached with Firm B, it took the FCA a considerable time to acknowledge its mistake and correct its records.
2. You are also unhappy that the FCA has refused to investigate Firm B's decision to record a complaint against you, and associated issues; and

3. You are also unhappy with the FCA's actions in relation to a contract role you were undertaking for Firm L. You feel that the FCA's actions cost you that role, and that those actions were based upon its failure to correct its records about the circumstances in which you left Firm B.

### **My position**

I have now had the opportunity to consider both the papers the FCA has provided and the additional information I requested. From this I understand that the information which Firm B provided to the FCA when it submitted the Form C (namely the reason for the cancellation of your Approved person status) led the FCA to believe that the cancellation of your approved person status should be regarded as non-routine. This meant that the FCA internally recorded the cancellation of your Approved person status as being qualified.

Whilst the FCA classified the withdrawal of your Approved Person status as being qualified, this was not recorded on the FCA register and would only mean that the FCA would adopt a different internal procedure when assessing any subsequent application which was submitted on your behalf. The simple fact that the FCA had recorded a qualified withdrawal against you would not affect any final assessment the FCA made upon your future fitness and propriety or stop you from obtaining an Approved person status in the future. This is demonstrated by the fact that, although the cancellation of your Approved person status with Firm B was treated as qualified you subsequently obtained Approved person status with Firm H.

It is disappointing that the FCA failed to act promptly upon your subsequent correspondence in relation to this matter. However, I understand that the FCA has been in contact with Firm B, which has confirmed that its "intention was a standard withdrawal related to poor performance" and that the FCA's internal records have been updated accordingly. The FCA has apologised to you for the delays in following this matter up.

The FCA has explained that it will not consider the part of your complaint in which you allege that Firm B failed to notify you of a complaint which they wrongly classified against you, and that the FCA failed to look into the matter. The FCA declined to consider this matter on the grounds that it related to the conduct of your previous employer rather than an allegation about the conduct of the regulator itself. My view is that the FCA was wrong to exclude this element of your complaint from the Scheme on those grounds, since you were complaining about what the FCA did (or did not) do. Nonetheless, having looked at the issue it is clear to me that, although there were delays in the handling of this matter, the information you provided was supplied to the appropriate part of the FCA.

I also understand that you feel that the FCA's contact with Firm T and Firm L was inappropriate. From the information you have provided, I understand that you were working for Firm L (through Firm T on a contract basis) to help it set up a discretionary investment function and were also looking to undertake the role of Firm L's Training and Compliance Officer. This element of your complaint was not something which you raised with the FCA. Whilst we would normally ask the FCA to consider all aspects of a complaint before we intervene, in this instance the FCA has asked us to address your concerns.

As part of the FCA's assessment of Firm L's application, it wanted to ensure that the staff Firm L was employing to oversee its day to day activities had the necessary experience and competency.

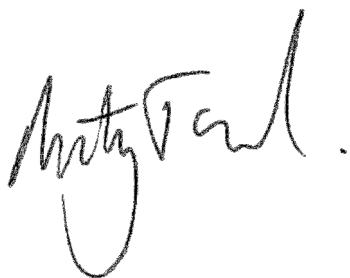
The enquiries the FCA made of Firm L, as you are aware from the redacted emails which the FCA has provided to you under an FOIA request, related to Firm L's assessment of your suitability for the role.

As having adequate systems and controls in place was a requirement of Firm L's application process, the FCA simply asked Firm L to demonstrate the steps it had taken to satisfy itself that you held the requisite competencies to enable you to undertake the compliance oversight role. The papers the FCA has provided to me indicate that the enquiries were only made to facilitate the processing of Firm L's application and were not related to your disputed (and now corrected) qualified withdrawal from Firm B. I do not, therefore, uphold that element of your complaint.

### **Conclusion**

There have been regrettable delays in the handling of your complaint, for which the FCA has already apologised. Having carefully reviewed the matter, I consider that no further action is required. I recognise that you will find this disappointing, but hope that this explanation enables you to understand why I have reached this conclusion.

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