

24th June 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00082**

Thank you for your email of 23rd May 2015. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint.

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. If you need further information, or information in a special format, please contact my office at 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 records you and the regulator have sent us. My decision on your complaint is explained below.

As the rules of the scheme under which I consider complaints can be found on our website at www.fsc.gov.uk, I do not intend to set them out fully below.

Your complaint

I understand that your concern is that the FCA has acted inappropriately and to your disadvantage through the introduction of the Retail Distribution Review (RDR), which has resulted in both banks and building societies closing their financial advice arms and in consumers having to pay for financial advice and financial reviews.

My position

In considering this case, I have reviewed the regulator's investigation records and the arguments put forward by it.

It may be beneficial if I provide you with some further information about the RDR and its introduction.

As the Financial Services Authority (FSA) (the then regulator) had concerns that the market for retail (consumer) investments was not working as well as it could to serve the interests of both the industry and consumers, it announced in June 2006 that it was to undertake a review of the retail investment market with the aim of identifying and addressing the root causes of problems that continued to emerge. The review was to include reviewing the products and services offered by retail banks, life insurers, financial advisers, building societies, stockbrokers and fund managers.

Further details were announced in June 2007 in a Discussion Paper¹, which set out that the FSA's general objectives for the review were:

- to maintain an industry that engages with consumers in a way that delivers more clarity for them on products and services
- to enhance a market which allows more consumers to have their needs and wants addressed
- remuneration arrangements that allow competitive forces to work in favour of consumers
- to maintain standards of professionalism that inspire consumer confidence and build trust
- an industry where firms are sufficiently viable to deliver on their longer-term commitments and where they treat their customers fairly
- to build regulatory framework that can support delivery of all of these aspirations and which does not inhibit future innovation where this benefits consumers

Following its initial review, in June 2009 the FSA issued a Consultation Paper² which set out its aims, which generally were to empower consumers and give them confidence and trust in the retail investment market. The review aimed to ensure that consumers were able to understand more clearly what kind of advice they were getting, how much it cost, how it was to be paid for and, critically, that consumers had confidence that their adviser was well qualified and acting in their best interests. The FSA expected that its proposals would help to reduce the negative perceptions associated with the advice process, improve consumer confidence and encourage people to seek financial advice. The proposals also presented significant opportunities for firms and individuals in the retail investment market to build trust and confidence by modernising their practices, raising their standards and treating their customers fairly.

¹ DP07/1 (<http://www.fca.org.uk/your-fca/documents/discussion-papers/fsa-dp071>)

² CP09/18 (<http://www.fca.org.uk/your-fca/documents/consultation-papers/fsa-cp0918>)

The Consultation Paper set out that the FSA aimed to achieve its objectives by:

- improving the clarity with which firms describe their services to consumers
- addressing the potential for adviser remuneration to distort consumer outcomes
- increasing the professional standards of investment advisers

In March 2010, following consideration of the responses to its Consultation Paper, the FSA issued its final Policy Statement³ which set out how it intended to address the first two objectives. In January 2011 the FSA issued a further Policy Statement⁴ which set out how the FSA aimed to achieve its final objective. The rules the FSA set for the industry as a result of the RDR came into effect on 1st January 2013.

I know that you are unhappy with the introduction of the RDR and the impact this had on consumers generally by making them pay for financial advice and financial reviews (as a result of the removal of ongoing commission payments from advisers) and that this may have led to the subsequent decision by many high street banks and building societies to stop providing financial advice to their customers.

The regulator has a statutory objective to ensure that advisers act appropriately at all times. By removing initial and continuing commission payments the is the FCA was aiming to ensure that a practice which is known as ‘commission bias’ (where advisers may recommend a product which pays a higher level of commission rather than the most appropriate product) does not occur. Likewise, by introducing consumer charging, the regulator is aiming to ensure that consumers receive a better service as an adviser will have to undertake a review to be paid and cannot simply receive commission without undertaking a review for the consumer. I cannot intervene in relation to these legislative functions.

Paragraph 3.4(c) of the Complaints Scheme states:

3.4 Exclusions to the Scheme

Excluded from the Scheme are complaints:

- c) in relation to the performance of the regulators’ legislative functions as defined in the 2012 Act;

As the removal of continuing commission payments and the related introduction of ‘charging’ is a direct consequence of the rules which were introduced by the FSA following extensive consultation as part of the RDR, it is not something which I can consider under the Complaints Scheme, but I hope that the explanation I have given helps you to understand why the FSA introduced the RDR rules.

I am sorry that I am unable to help you. However, the FCA is conducting a number of post implementation reviews on the impact the RDR has had on both the financial services industry and consumers, with some post implementation reviews having already been completed. You might be interested in the first report of this review, which you can find at <http://www.fca.org.uk/your-fca/documents/post-implementation-review-of-the-retail-distribution-review-phase-1>. Your concerns are something that may be useful to the FCA when it undertakes the next phases of its review, and you may therefore wish to inform the FCA’s RDR Post Implementation Review Team of your concerns.

³ PS10/06 (<http://www.fca.org.uk/your-fca/documents/policy-statements/fsa-ps10-06>)

⁴ PS11/1 (<http://www.fca.org.uk/your-fca/documents/policy-statements/fsa-ps11-01>)

In conclusion, I am not able to uphold your complaint. 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