

15<sup>th</sup> July 2015

Dear Complainant,

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00083**

Thank you for your email of 29<sup>th</sup> 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](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 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](http://www.fsc.gov.uk), I do not intend to set them out fully below.

**Your complaint**

I understand that your concern is that both the Office of Fair Trading (OFT) and its successor, the FCA, have acted inappropriately when reviewing the Consumer Credit licences of all of Mr B's firms (Group H) and the subsequent OFT's decision that it was minded to revoke (MTR) Group H's Consumer Credit licences. I am also aware that you are unhappy with the manner in which the OFT considered the appeal which resulted in alleged procedural impropriety. In particular, you are unhappy that the FCA has chosen to defer its investigation until the First Tier Tribunal (FTT) has considered your appeal.

## **My position**

I can appreciate why you are unhappy with the situation. , I understand that after the OFT notified Mr B and you that it was minded to refuse (MTR) the Consumer Credit licences Group H held and that it intended also to take further action against both you and Mr B, you challenged this decision. Following a lengthy review period, which has generated your complaint about the OFT's procedural improprieties, the OFT upheld its MTR decision that the Consumer Credit licences held by Group H should be revoked and that further sanction should be applied to both Mr B and you.

You subsequently appealed the OFT's decision at the FTT. However as both you (together with Mr B) and the FCA were unhappy with the findings, appeals were launched over part of the FTT's decision at the Second Tier Tribunal (STT).

Following consideration, the STT judge upheld part of the appeal and referred the matter back to the FTT for further consideration. In his judgment the STT judge also indicated that your concerns about the OFT's procedural impropriety was something which the FTT could consider and was something you should request.

Although the FTT is now considering the matter, you are unhappy that to date neither the OFT nor the FCA have ever provided any substantial response to the allegations of misconduct. You therefore wrote to the FCA and asked it undertake an investigation into your concerns over the OFT's conduct.

Following consideration of your complaint, the FCA arrived at the view that, as the issue was being considered by the FTT, there would be little to be gained by undertaking a parallel investigation. The FCA wrote to you to inform you that it was not intending to undertake an immediate investigation into your complaint as it felt that the issue was best dealt with initially elsewhere (relying upon paragraph 3.6 of the Complaints Scheme to support its decision).

You were unhappy with this decision and wrote back to the FCA to challenge its decision. You pointed out that, as both Mr B's and your own business interests and reputations had been adversely affected by the OFT's conduct and decision, you were looking for financial redress, which was something that the FTT was unable award to you.

Having undertaken a review of its position, the FCA maintained the view that, as the FTT was considering the matter, it should not undertake a parallel investigation. However, the FCA acknowledged that you were looking for financial redress and, to reflect this, decided that, rather than excluding your complaint, it should defer its investigation until such time as the FTT had considered your claims and issued its judgment (as the FCA could use the judgment to inform its consideration of your claim for financial redress). In arriving at this decision the FCA has relied upon paragraph 3.7 of the Complaints Scheme.

I must stress here that, contrary to what you have said in your letter to my office, the FCA is not saying that it will not undertake an investigation, but is simply stating that at the current time it does not feel that it should undertake an investigation. The FCA's view is that, as the STT has confirmed that the FTT has the jurisdiction to consider your concerns over the OFT's conduct (and, specifically, whether there were any procedural improprieties which led to the removal of the Adjudicator who was initially considering your appeal) little would be gained by running what would amount to a parallel investigation into the OFT's conduct.

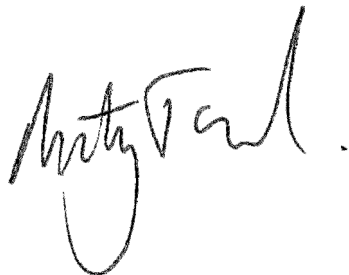
Although this will come as a disappointment to you, I believe that the FCA's decision to defer its investigation (and to rely upon the contents of paragraph 3.7 of the Complaints Scheme) was correct.

I have also noted your comments that the FCA disputes the view that the FTT has the jurisdiction to consider the matter, but whilst this may be the case, unless and until the FTT rules that the OFT's conduct falls outside its jurisdiction the STT's decision that the FTT has the jurisdiction is persuasive when considering whether the FCA should start an investigation.

Although this will inevitably result in a delay whilst the FTT considers the matter any finding by the FTT, that the OFT acted inappropriately, would be binding upon the FCA. I should also add out that once the FTT has issued its judgment you should contact the FCA's Complaints Team and ask it to reopen its investigation into your complaint. I appreciate that you are concerned about the time period during which you must raise your concerns, but would like to reassure you that you will have 12 months from the date of the FTT judgment to make a referral to the FCA, and you will then have a further three months from the date of the FCA's decision letter to refer the matter back to us if you wish to do so.

I appreciate that you will be disappointed with my decision that the FCA was correct to defer its investigation into your complaint, 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