

05 November 2021

Final report by the Complaints Commissioner**Complaint number FCA001416***The complaint*

1. On 4 September 2021 you asked me to investigate a complaint about the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows :

You are unhappy at the term “*Chinese wall*” being erased from the FCA’s literature and rules. You are offended and insulted at the FCA’s act of inference relating to this matter, since you are a published author on the topic of “Chinese walls”.

You regard the move by the FCA as a barrier that acts for political correctness, factually incorrect and believe the FCA lack in their understanding of the Chinese culture.

What the regulator decided

3. The FCA did not uphold your complaint and advised you:

Unfortunately, as set out in paragraph 3.5 of the Scheme, this type of complaint is excluded. This is because the FCA will not investigate a complaint under the Scheme which they reasonably consider amounts to no more than dissatisfaction with the regulators’ general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.

Although I have not investigated your complaint formally under the Scheme, I have liaised with the area of the FCA most closely connected to your complaint to provide you with a response to the matters raised.

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The FCA has a statutory duty to consult and carry out its responsibilities in an open and accountable way. As such, when we want to make changes to the FCA Handbook we will almost always produce a Consultation Paper. We hope to consult on the detail of any proposed changes to the language of the FCA Handbook later this year. This will offer everyone the opportunity to provide feedback on the proposed amendments to potentially non-inclusive language in the FCA Handbook before we finalise any changes.

Why you are unhappy with the regulator's decision

4. You have told me that:

I am unhappy with the FCA's decision on my complaint against the FCA.

My complaint was confirmed as considered by the FCA as a complaint against the FCA under its Complaints Scheme.

As you are the independent person appointed as ultimately responsible for the conduct of this investigation, I am contacting you for a review of the FCA's decision, as I am grossly unhappy with, and perturbed by, the FCA's unwarranted unreasonable and unprofessional conduct in this matter.

My analysis

5. Your complaint is that you are both personally offended and professionally insulted that the term "*Chinese wall*" is facing erasure from the FCA's literature and rules.
6. You received two apologies for the delay in your complaint being reviewed by the FCA and then when receiving your decision letter, you were advised your complaint was excluded from the complaints scheme. I can understand why you would be unhappy there was a delay to your complaint being reviewed to then be told it was excluded from the scheme. I am aware of the delays within the FCA and I continue to monitor the situation, however I am satisfied the apology emails you received in respect of the delays are sufficient.

7. It is implicit in your complaint that the FCA's act to erase the term by definition frames you as a person with views tantamount to racism, thereby denigrating your professional persona and castigating you as an industry and academia persona non grata. This you consider as unreasonable behaviour and unprofessional conduct by the FCA, contrary to its 'argued' rebuttal.

8. I should make it clear that it is not my role to say what I would have decided had I been the regulator. My task is to assess whether or not the decisions were within the range of decisions which the regulator could reasonably have taken, in the light of its statutory duties and policies. Although the complaints team did not investigate your complaint, they did advise you that they hope to consult on the detail of any proposed changes to the language of the FCA Handbook later this year. This will offer you the opportunity to provide feedback on the proposed amendments to potentially non-inclusive language in the FCA Handbook before they finalise any changes.

9. In my view the FCA's decision to consult on these issues is a reasonable one. I note from your comments you disagree with me on this. I maintain if you have any comments, you should submit them to the FCA at the appropriate time.

My decision

10. I have not upheld your complaint for the reasons stated above. I realise that this outcome may be disappointing for you but I hope that you have understood how I have reached it.

Amerdeep Somal
Complaints Commissioner
05 November 2021

