

10 January 2022

**Final report by the Complaints Commissioner****Complaint number FCA001420***The complaint*

1. On 9 September 2021 you asked me to investigate a complaint against the FCA in connection with Firm X.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

You are unhappy the FCA has allowed Firm X to have an informal moratorium on the payment of redress claims. You claim the temporary moratorium set by the FCA has gone on for too long and by allowing Firm X this temporary moratorium, the FCA is harming customers like yourself. You believe the moratorium should have been two way.

The remedy you are seeking is for the FCA to tell Firm X that they must inform all people who have made a complaint that they do not need to make payments until their complaint has been decided, and if a complaint is upheld, Firm X should refund all the payments made in 2021.

*What the regulator decided*

3. The FCA did not uphold your complaint.

*Why you are unhappy with the regulator's decision*

4. You have said that the FCA did not address your main concern which is

‘The main effort of the complaint was in regard to the situation in paying Firm X still whilst having an active complaint in. And should Firm X enter insolvency or FoS upholds the complaint then these payments become severely watered down in a potential redress agreement with only a tiny fraction of what I’m paying them being returned. So why should we carry on paying. Surely all payments to Firm X should be on

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pause if we have an active live but paused complaint lodged with the FoS'.

*My analysis*

5. Firm X are a consumer credit firm who specialise in guarantor lending. At some point in 2020 the firm began to receive large numbers of complaints and as the FCA explained to you, Firm X's total estimated redress bill is likely to be greater than its assets, and so the firm has sought to reduce its redress liabilities through a scheme of arrangement. Such a scheme of arrangement must be approved by a Court. The High Court considered the Scheme as well as the FCA's representations, and it did not approve it.
6. Firm X shortly after issued a statement that it continues to consider all options, which includes insolvency. You have said you have a complaint at the Financial Ombudsman Service (FOS) against Firm X, however, the FOS has suspended reviewing complaints against Firm X. It has stated that the reasons for this are that Firm X has said it is not able to pay redress awarded to consumers outside of the Scheme arrangement, which was not approved by the court.
7. Your concern stemming from the events so far connected with Firm X is that you are currently repaying your monthly loan, but at the same time you have a 'suspended' complaint at the FOS and you believe you may be awarded redress from the firm. However, you are concerned that if the firm is to enter insolvency proceedings, you will not receive any potential redress. You believe you should be able to stop your monthly repayments to Firm X until the matter is resolved one way or another.
8. You relayed this concern to the FCA, and it replied as follows:

The FCA does not investigate individual complaints and cannot intervene in individual situations. The FCA is also unable to give any advice or guidance to individuals about their circumstances.

I can understand that you are in a stressful situation and are seeking to understand the options that you have.

I am afraid I cannot provide you with any guidance about your circumstances or options. However, you may find it helpful to visit MoneyHelper. MoneyHelper is a free service provided by the Money and Pensions Service. The Money and Pensions service is an arm's-length body, sponsored by the Department for Work and Pensions. MoneyHelper provide some information about dealing with debt, please see here for further details, <https://www.moneyhelper.org.uk/en/money-troubles/dealing-with-debt/help-if-youre-struggling-with-debt>.

9. You were not satisfied with this answer and referred your complaint to me. I also appreciate how stressful the situation must be for you. However, the FCA is correct to say what it did: Neither the FCA nor I can provide you with advice on your options with respect to your monthly repayments to Firm X.

*My decision*

10. I am sorry, but I am not able to help you with the matters you raise under the Complaints Scheme. The FCA has pointed you to an organisation which may be able to provide you with information, and I suggest you contact it.
11. In response to my preliminary report you have said you are dissatisfied with my decision above and that 'The FCA are failing the innocent exploited customers by not regulating or providing customers of Firm X with any support.' And that 'FCA have to be held to account by allowing Firm X to operate and bleed money from customers'.
12. You have now raised a slightly different complaint which touches more generally on how the FCA oversees Firm X. There have been several highly publicised instances of such firms either entering Schemes of Arrangement or collapsing into administration, and subsequently not being able to meet their redress liabilities in full.
13. Your new complaint highlights concerns which you may wish to refer to the FCA for an initial investigation. If you choose to do so and are not satisfied with the response you receive from the FCA, you may refer it to me for an independent review.

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Complaints Commissioner  
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