

15 March 2022

Final report by the Complaints Commissioner**Complaint number FCA001530***The complaint*

1. On 5 December 2021 you complained to me about the FCA's investigation of your complaint.
2. The background to your complaint is that you started to invest in the loan and mini bond market four years ago. You have said to me that you first invested in Firm A and Firm B.
3. You were then approached by a firm – Firm C - which you say stated that it could invest you in a Firm D, managed by Firm E, an FCA authorised firm. You then say that 'Consequently, I invested in the Firm D, Firm F, Firm G and Firm H through Firm I. I also reinvested in the Firm J.'
4. At various points in time after your initial investments, Firm F, Firm H, Firm J and Firm E went into administration or liquidation. As a result of this, you have lost £70,000. You would like the FCA to compensate you for these losses.
5. Your reasons for this are that:
 - a. The FCA has not effectively regulated companies such as Firm A, Firm E, Firm K, Firm B, that it has authorised.
 - b. The FCA introduced a policy that only Sophisticated investors or High Net Worth investors could invest in loan notes or mini bonds but failed to understand that companies would simply pressure clients into signing such agreements. Moreover, at no point was it made clear that signing these agreements meant investors were not covered by the FSMA.
 - c. the FCA has totally failed to protect me as an investor in the loan note and mini bond markets. The FCA has allowed widespread malpractice and

corruption to become common place. Instead of intervening decisively by banning loan notes and mini bonds, like with PPI, and establishing a compensation scheme, again like PPI, the FCA has bumbled around enacting policies that made investors such as myself more vulnerable.

- d. The FCA should have actively intervened to stop the sale of loan notes and mini bonds because they are known to be little more than fraudulent Ponzi schemes. Instead, the FCA has been complicit by maintaining that these schemes are legitimate, but complex high risk investments that should only be sold to Sophisticated investors or High Net Worth investors who can understand their investments.
- e. It is as a result of the FCA to properly regulate the loan note and mini bond markets that I have lost £70,000. I was perfectly able to understand the type of investments I was investing in. My problem was that those investments were fraudulent. Companies were systematically lying to and misleading investors. The FCA rather than holding these companies to account and protecting me as an investor decided to do as little as possible and take as long as possible to do that.

Preliminary points

- 6. Your allegations regarding the firms Firm A and Firm B are being dealt with as part of a different complaint you have submitted to the FCA and will not be dealt with here.

My analysis

- 7. In my view, there are two parts to your complaint. One is that the FCA failed to regulate specific firms in the mini bond and loan 'market' (Element One) and the other is that the FCA are not regulating the loan and minibond 'market' appropriately (Element Two). I will address these in turn.

Element One

- 8. As you are aware, Firm C is not a firm authorised by the FCA. You have said that the firm claimed it was an 'introducer' to skirt legal loopholes and gained your trust through a series of home visits and organised events which you attended. You allege that the FCA did not stop or take retrospective action

about Firm C marketing material and sales methods. You consider that the FCA needs to be more proactive and stop treating companies who market these kind of investments as simple transactions.

9. As a result of your interaction with Firm C, you invested in Firm F, Firm G, Firm H and Firm J which are/were all unregulated companies offering unregulated products to consumers (although you say in the case of Firm H, an FCA authorised Firm K, signed off on the promotional material).
10. The FCA has deferred your complaint about Firm C as it has said there is some form of regulatory action taking place with respect to this firm. I agree with this deferral. Once this complaint has been reviewed by the FCA, you may refer it to me if you are not satisfied with the outcome.
11. The FCA is currently investigating a complaint from you in connection to its oversight of Firm K, a firm it authorises. Once this complaint has been reviewed by the FCA, you may refer it to me if you are not satisfied with the outcome.
12. The FCA will not be reviewing your complaint about the other firms listed in paragraph 9 on the basis that these are/were unregulated firms selling unregulated products (mini bonds).
13. Through your connection with Firm C, you invested in a Firm D ISA managed by Firm E. The FCA has deferred your complaint about Firm E as it has said there is some form of regulatory action taking place with respect to this firm. I agree with this deferral. Once this complaint has been reviewed by the FCA, you may refer it to me if you are not satisfied with the outcome.

Element Two

14. You do not think the FCA is regulating the mini bond industry appropriately for the reasons in in paragraph 5.
15. The FCA's response to this part of your complaint was that 'paragraph 3.5 of the Scheme provides that we will not investigate complaints which amount to no more than dissatisfaction with the FCA's general policies or with the exercise of, or failure to exercise, discretion where no unreasonable, unprofessional or other misconduct is alleged. Your complaint relates to the FCA's approach to the

regulation of a particular industry and is, therefore, something that we cannot investigate under paragraph 3.5 of the Scheme’.

16. I did not think you had expressed general dissatisfaction about the FCA’s regulation of the mini bond industry in my preliminary report. You had given specific examples where you do not think the FCA is regulating properly: for example, you think the FCA should have acted sooner to ban promotions of speculative mini bonds; intervene and stop the sale of all mini bonds now, as you feel they are Ponzi schemes; and establish a compensation scheme like PPI, amongst others. After I issued my preliminary report you have emailed me on numerous occasions, claiming that indeed you feel the entire mini bond market was improperly regulated. I have read, and carefully considered your comments.
17. Nevertheless, a complaint about the way an entire area of business is regulated may not be the type of thing that the Scheme envisages.
18. This is not to say that there may be no problems with the regulation of the mini bond and loans industry, but in my view the way in which the FCA regulates a whole area of industry seems more appropriate to be dealt with by way of wider-scale inquiry than a complaint in an individual case unless there are exceptional circumstances. So, for different reasons, I agree with the FCA that Element Two of your complaint is not best suited to be reviewed under the Scheme.
19. Nevertheless, you have raised the question of whether there is perhaps a need for further or different regulation in the mini bond industry. (Bearing in mind some of the suggestions you propose in 16 above are a matter for government intervention and outside the scope of FCA’s remit).
20. Whilst this does not fall under the Scheme, I invite the FCA to update you as a courtesy on any recent developments in this area with respect to regulation.
21. Since I issued my preliminary report, the Financial Times (FT) has reported that

‘The UK Treasury proposed that issuers of minibonds — or bonds that cannot be traded to the public — had to trade on a regulated market. This “new, bespoke” regime would replace the current system in which minibond issuers were not required to offer investors any protection’.

22. Clearly, there are changes being planned in this sector. I hope this gives you reassurance that the matters you raise are being looked at currently. However, I cannot take this forward under the Complaints Scheme for the reasons I give above.

My decision

23. Element One of your complaint has three elements which are currently either deferred or the investigation has not concluded. Once you have received a decision on these elements, you may refer them back to me for an independent review. Element Two of your complaint is best dealt with elsewhere, although I **invited** the FCA to provide you with further information, which it has done so.

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Complaints Commissioner

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