

8 July 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority
Reference Number: FCA00170**

Thank you for your letter of 20 May. 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.

As you can find full details of how I deal with complaints at www.fsc.gov.uk I do not intend to set them out fully below. 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.

Your complaint

From your letter and correspondence and the papers submitted to me by the FCA I understand that you initially approached the FCA about Bank A's practice in relation to the handling of ISAs. You were also dissatisfied with the outcome and process of your individual complaint about Bank A as dealt with by the Financial Ombudsman Service (FOS).

Your complaint was first dealt with by the FCA as a local area complaint, which was not upheld. You escalated your complaint to the FCA's Complaints Team in January 2016 when you did not receive a response to your letter dated 7 December 2015. You complained that bank customers do not get a fair deal because Rules and Codes are ignored and Banks have nothing to fear from the FCA or FOS.

The response from the FCA (dated 12 February 2016) was that your complaint about Bank A fell outside the scope of the complaints scheme because the FCA does not investigate

complaints about the individual firms it regulates. The decision letter gave you further information about the FCA's approach and remit and also that of FOS. It also told you that the information you had provided about Bank A had been forwarded to the relevant FCA supervisory team for consideration. Your complaint that the FCA had not responded to your letter of 7 December 2015 was not upheld on the basis that this letter had not been received.

On 8 April 2016 you wrote again to the FCA saying that your complaint had been ignored for four months, that you wished to complain about Bank A, Bank B, the FOS and the FCA. The FCA responded by referring you to its decision letter of February 2016. You wrote to the FCA again on 28 April and said that you had documents supporting your losses. On 18 May the FCA wrote to you to say that although it could accept further information from you it does not investigate complaints against the firms it regulates and cannot deal with your individual complaint on your behalf. In addition, although any information you provide will be reviewed by the FCA and may form part of action against a firm, the FCA is limited as to what information it can disclose to you due to confidentiality restrictions contained within section 348 of the Financial Services and Markets Act 2000 (FSMA). As a result of these restrictions, the FCA adopts a general policy of not providing feedback on information that it receives in regard to the firms it regulates. The FCA would not be in a position to tell you the outcome of your information.

Your complaint to me is that Banks are able to ignore FCA rules because the FCA won't enforce them.

My position

I can appreciate how frustrating it must be to feel dissatisfied after taking your complaint about Bank A to the Ombudsman. However, I am unable to consider your complaint about FOS as this is specifically excluded from the Complaints Scheme (the Scheme) under paragraph 3.4 of the Scheme.

Although the FCA concluded that it could not consider your complaint about Bank A, it did inform you that it has passed on the details to its Supervision Division. Because I am allowed to look at the FCA's confidential information, I have requested and received information from the FCA to confirm that this has been done. Although I cannot give you details, I am satisfied that your complaint was properly considered. The Supervision Division is responsible for monitoring the conduct of regulated firms and ensuring that they comply with the FCA's rules. The FCA is a risk-based regulator and has discretion over which issues and concerns it decides to pursue. If it did decide to take any further action because of the information you have supplied, it would not be able to provide you with any compensation or redress, and most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the Supervision Division.

The FCA as the regulator welcomes information from public-spirited individuals like you who bring forward issues for consideration. However, as you have been advised by the FCA, there are confidentiality restrictions in place under section 348 of the FSMA which limit what consumers can be told. This is the way that Parliament, rather than the FCA, has decided that the system will operate.

The FCA did not uphold your complaint that it had not responded to your letter of 7 December 2015 on the basis that it had not received this letter. I appreciate that you consider this to be a tactic used frequently by complaints organisations. However, on this occasion I

accept that the FCA has checked its records and found that your letter was not received. I note that in its decision letter of 12 February the FCA also referred to your phone call to the Complaints Team on 7 January 2016 to see whether the Complaints Team had received your letter of 7 December 2015. The FCA's letter said:

“You have state (sic) that you were incorrectly informed by a member of the Complaints Team that another member had left the FCA. We do not have call recordings so we have not been able to listen to what was said in this conversation. However we assume that there has been some sort of miscommunication and as such would like to for (sic) the frustration this caused you”.

I assume that it was the intention of the FCA to include the word ‘apologise’ in the final sentence of this paragraph. It was particularly careless of the FCA to miss out this word in the circumstances. I also note that in a letter to you dated 22 April 2016 the FCA refers to its decision letter as being dated 22 February rather than 12 February. These typographical errors show a lack of attention that is unsatisfactory and it is understandable if these have undermined your confidence in the FCA's Complaints Team. Despite this, I am satisfied that the FCA was correct not to uphold your complaints for the reasons stated.

Conclusion

Although I understand that you are unhappy with the FCA's decision not to uphold your complaints, I believe it was correct to do so and, as a result, I am unable to help you under the Complaints Scheme. 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