

18 July 2022

## Final report by the Complaints Commissioner

### Complaint number FCA001710

#### *The complaint*

1. On 25 April 2022 you asked me to investigate a complaint against the FCA.

#### *What the complaint is about*

2. The FCA summarised your complaint as follows:

My understanding of your complaint is that you invested in a firm called X through a broker called Y. You have said that Y as gone into administration and it appears the firm were acting as a clone of a dissolved firm. You invested £10,000 via Y.

#### Part One

You allege that the FCA was not 'doing its job actively and effectively' in relation to Y, and if it had been, you would not have invested via the firm.

To resolve your complaint, you are seeking the return of your capital investment totalling £10,000 plus a contribution to lost interest at 9% per annum

#### *What the regulator decided*

3. The FCA did not investigate your complaint. It said that 'Your complaint relates to the FCA's actions or inactions in relation to Y. That is not something we are able to investigate under the Complaints Scheme because your complaint is not arising in connection with the exercise of the FCA's relevant functions.

Your complaint relates to the conduct of a firm and individuals related to that firm who were not authorised to carry out regulated activities by the FCA. You have said that Y referenced them being FCA regulated to sell investment products to you. Having searched the Financial Services Register, it is clear that

Y did not and has not appeared on the Financial Services Register and did not have permissions to carry out regulated activities.'

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

4. You have said to me that you feel the FCA has not protected you from harm as per its mission statement and 'All I want to know is what exactly did they do or not do to comply to their mission statement and regulate the marketplace such that firms like the one mentioned were not allowed to run freely in the UK defrauding the public'.

*My analysis*

5. You invested in a firm Y which was not authorised by the FCA, but which you allege made representations to you that it was. If this was indeed the case, firm Y was acting fraudulently. It is your view the FCA should somehow be aware of instances when firms it does not regulate seek to defraud the public. I am afraid I do not agree with you. There is no obligation on the FCA to monitor the activities of firms it does not regulate.
6. One of the FCA's statutory obligations is consumer protection, but the FCA is only able to offer consumers a certain amount of protection. Consumers must also look to protect themselves by always acting with care. I have sympathy with your predicament, but it does not follow that the FCA is at fault. In this instance, you invested in a firm which does not appear and did not appear on the FCA Register, as it is not authorised by the FCA. You have said to me that the report of the Rt. Hon. Dame Elizabeth Gloster DBE, PC (the Gloster report) as well as my own on the FCA's oversight of London Capital and Finance plc. shows serious deficiencies in the Register and therefore you should not have been expected to rely on it. I am afraid I do not agree with you. The matters raised with respect to the Register in the reports above are different to the one here. Whilst the Register has scope for improvement, it is the case that FCA authorised firms are listed on it, and it exists as a reference point for interested parties to ascertain the authorisation status of firms.
7. I have sympathy for the position you find yourself in, but from the information presented to me by both you and the FCA, there is nothing to suggest that the FCA acted inappropriately. You allege firm Y told you it was authorised, but I am

afraid that it does not follow that the FCA should be held liable for your losses. Given that, as I have explained above, I believe that they acted appropriately. There are no grounds to recommend that the FCA should offer you any form of redress. The FCA was correct to advise you that this is a matter which is best dealt with by reporting it to Action Fraud. I am sorry to disappoint you but I do not uphold your complaint.

Amerdeep Somal

Complaints Commissioner

18 July 2022