

10 August 2022

**Final report by the Complaints Commissioner****Complaint number FCA001760***The complaint*

1. On 3 July 2022 you asked me to investigate a complaint about the FCA.

*What the complaint is about*

2. The FCA described your complaint as follows:

You invested in a firm called [X] through a broker called [Y]. You have told us that X has now gone into administration and you have lost your investment in this firm. You allege that the FCA was not 'doing its job actively and effectively' in relation to the above firms and if it had been, you would not have invested. To resolve your complaint, you are seeking the return of your capital investment.

*What the regulator decided*

3. The FCA declined to investigate your complaint. It said that Firm X and Broker Y were not authorised by the FCA and were not on the FCA Register. The FCA explained that the Complaints Scheme covers the investigation of complaints that arise in connection with the exercise of, or failure to exercise, any of the FCA's relevant functions. Overview of firms X and Y is not within its relevant functions.

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

4. You have said to me that 'The final decision letter attached seems to reflect only on the role of the regulator regarding firms that have registered with it and are on its website. They say little or nothing about how they regulate the wider market as was expected of them from their mission statements...'
5. You also sent me a nine page letter in support of your argument above.

*My analysis*

6. You are referring to your experience with investments in certain companies in the period 2016 to 2019. You invested in a firm X through broker Y (in the period 2016-2019) which were not authorised by the FCA.
7. The FCA is correct that there is no obligation on it to monitor the activities of firms it does not regulate.
8. 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.
9. 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. There are no grounds to recommend that the FCA should offer you any form of redress.
10. I now turn to your allegation about the FCA's regulation of the 'wider mini bond market'. This did not form part of your original complaint to the FCA, which is why the FCA did not comment on it in its decision letter to you. Under the Complaints Scheme the FCA normally do their own investigation first, as that is usually the best way of resolving matters (see <http://frccommissioner.org.uk/complaints-scheme/> for further details). However, in this case I will not be referring this element of complaint back to the FCA for investigation. This is because I have dealt with an allegation such as this from other complainants.
11. You have given both general and specific examples of where you do not think the FCA is regulating properly. Nevertheless, a complaint about the way an entire area of business is regulated may not be the type of thing that the Scheme envisages.
12. This is not to say that there may not have 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, I think this element of your complaint is not best suited to be reviewed under the Scheme.

13. Having said that, it is clearly the case that there have been some very positive developments and there are changes being planned in this sector which will enhance consumer protection. If you are interested in these, I can invite the FCA to update you as a courtesy on any recent developments in this area with respect to regulation. I appreciate this will not have a direct bearing on the circumstances you experienced during the time of your investment, but I hope this gives you reassurance that a number of changes are being looked at currently.

*My decision*

14. I have not upheld your complaints for the reasons stated above. You have provided a detailed commentary in response to my preliminary report and repeated your concerns about the UK regulatory environment both now and in which you invested between 2017 and 2019. I have considered carefully all your points and I have made some changes to the wording above. However, these do not change my overall conclusions about your complaint for the reasons given. I realise that my decision is likely to be a considerable disappointment to you but I hope you will understand how and why I have reached it.

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Complaints Commissioner

10 August 2022