

27th October 2016

**Complaint against the Financial Conduct Authority
Reference Number: FCA00189**

Dear Complainant,

Thank you for your correspondence about your complaint against the Financial Conduct Authority (FCA).

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 have not set them out here. 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

I have reviewed all the information you and the regulator have provided us with. My decision on your complaint is explained below.

Your complaint

You made a complaint against the FCA as the new capital requirement rules created by the FCA, which came into effect on 1st September 2016, mean that SIPP operators who wish to allow their clients to continue investing in non-standard assets would have to increase their capital holdings in order to remain compliant. (You also made some complaints about the FCA's handling of your inquiries – the FCA has already apologised for some shortcomings in its handling, so I have not addressed those points again.)

You were notified by your SIPP operator this year that you will no longer be able to invest in a term deposit account as term deposits appear now to be classified as non-standard assets (because they cannot be realised / released for the investor to use as they wish within a specified time). This has resulted in you suffering a financial loss as your money is currently sitting in a standard savings account, not earning you the interest a term deposit account would.

You are also dissatisfied with the FCA's assertion that the new capital adequacy rule requirements put in place by them are rules for SIPP operators to follow and do not directly affect consumers. You believe this to be incorrect. While the rules apply to SIPP operators and not consumers directly, when small firms interpret them to mean that term deposit accounts are now non-standard assets and they make a commercial decision to no longer facilitate these sorts of investments to avoid having to raise their capital levels, and when large firms do not allow their customers to invest in such assets, this will have an impact on consumers who only wish to invest in FSCS backed assets. In your opinion consumers are in effect being pushed into investing in riskier assets.

My findings

Having considered your complaint in detail, it is my understanding that the underlying concern you have is that the FCA has brought into force a rule which changes the capital adequacy rules for SIPP operators, which has the unintended consequence of restricting your ability to invest your pension fund in what you deem safe assets. I am unable to investigate your complaint in detail as it falls under paragraph 3.4 c) of the Complaint Scheme, which states that complaints about the performance of the regulators' legislative functions (such as making rules for regulated firms) are excluded from the Scheme.

I note that the FCA did not explicitly exclude your complaint but advised you that whether or not a SIPP operator continues to facilitate investments in non-standard assets (such as a term deposit account potentially) is a matter for the operator. The FCA also provided a brief explanation about the effects of the new rules and stated that they do not have a direct impact on you as a consumer.

While this information is correct, I believe it does not address the crux of your concerns, which is that as a result of the new capital requirement rules you do not seem to be able to continue investing in a term deposit account, which you deem a safe investment as it is backed by the FSCS. You are concerned that, in effect, you are being pushed into what you deem riskier investments. Following your experience with Equitable Life, you are keen to avoid this.

Therefore, while complaints about the FCA's legislative functions are outside of the scope of the Scheme, and while I uphold the FCA's findings on your complaint, I suggest that the FCA give consideration to your concern that the new capital requirement rules for non-standard asset investments may have had an unintended consequence in that some consumers may find themselves in a position where they are unable to invest in term deposit accounts.

You may also wish to raise this issue with your Member of Parliament.

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