

10 August 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00211**

Thank you for your emails. 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.

You can find full details of how I deal with complaints at [www.fsc.gov.uk](http://www.fsc.gov.uk).

**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 the papers you and the FCA have supplied to me, it appears that the Financial Services Ombudsman made a decision to uphold a complaint against your company L which you disagree with on the basis that you allege the complainant has committed fraud which the FOS did not take into account. You entered into correspondence with the FOS subsequent to its decision, but the issue was not resolved. You have not paid the FOS Award.

As you did not comply with the FOS award, the FCA Enforcement and Market Oversight Division advised you it would recommend to the FCA Regulatory Decisions Committee (RDC) to cancel your Part4A permissions.

You then submitted representations to the Enforcement Division that you should not pay the Award as you believe the complainant has committed fraud. The Enforcement Division wrote back to you in detail, pointing out that it had considered the evidence you had presented in detail and explaining why it nonetheless considered that you should pay the award.

You then complained to the FCA Complaints Team who rejected your complaint on two grounds:

- (i) on the basis that under paragraph 3.4 (e) of the Complaints Scheme, complaints about the actions or inactions of the FOS are excluded;
- (ii) on the basis that your complaint about the FCA's refusal to suspend enforcement action would be best dealt with through the RDC, to whom you had the right to make representations.

You remain unhappy with this outcome and submitted your complaint to me on 3 August 2016. Your view is that enforcement action should be suspended pending the police investigation into the alleged fraud.

### **My position**

I understand that you are unhappy with the FOS decision. However, the FCA decision letter of 26 May 2016 correctly informed you that the Complaints Scheme excludes complaints about the FOS. It is not within my remit to review FOS decisions.

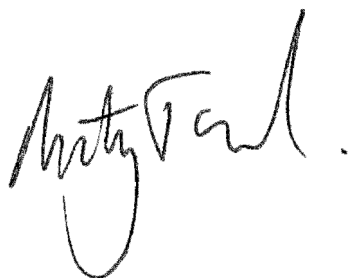
It is clear you still do not accept that you should have to pay the FOS award or be subject to Enforcement action. However, I agree with the FCA decision letter that this is a matter dealt with better at the RDC, and should not, therefore, be dealt with by the Complaints Scheme (see paragraph 3.6 of the Complaints Scheme rules at <http://fsc.gov.uk/complaints-scheme/>).

### **Conclusion**

Although I understand that you are unhappy with the FCA's response to your complaint, in my view, the FCA's response was reasonable, and it has provided you with an adequate explanation of the reasons it is taking the current course of action. I have sympathy with your circumstances, but am unable to help you further 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



Antony Townsend  
Complaints Commissioner