

9 December 2016

Dear Complainant,

**Complaint against the Financial Conduct Authority  
Reference Number: FCA00234**

Thank you for your email. 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 (the 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](http://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](mailto: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 email and the papers submitted to me by the FCA I understand that you are concerned about the conduct of a regulated firm (Firm A) in relation to financial losses you incurred under a trading account you opened in July 2011, and the FCA's oversight of Firm A and foreign exchange ("forex") trading in general. Your complaint relates in part to substantial losses that you incurred on 15 January 2015 when the Swiss National Bank removed the floor on the Euro/Swiss Franc exchange rate; however, you also have broader concerns about the regulation of the type of account you held with Firm A.

You referred your individual complaint about Firm A to the Financial Ombudsman Service (FOS) but it was not upheld. In responding to your complaint the FOS adjudicator said that in his opinion the "majority of [your] concerns and arguments... need to be directed to the FCA and not the Ombudsman Service."

The FCA identified twelve elements to your complaint but decided that overall your complaint was primarily concerned with the FCA's rules around investment products. It concluded that your complaint was outside the scope of the Complaints Scheme ("the Scheme") and declined to investigate the individual elements. It referred you to paragraphs 3.4 and 3.5 of the Scheme and said that your concerns related either to the performance of the regulators' legislative functions (including making rules and issuing codes and general

guidance) as defined in the Financial Services Act 2012, or to dissatisfaction with the FCA's general policies or with the exercise of, or failure to exercise, discretion where no unreasonable, unprofessional or other misconduct is alleged. The FCA response concluded by saying that even though it could not investigate your complaint it wanted to provide you with additional information. This information was sent to you later, and dealt with FCA requirements for firms offering contracts for investment services of the type you had entered into with Firm A.

### **My position**

I have reviewed all of the complaint papers supplied by you and the FCA and I have also considered your response to the additional information sent to you by the FCA.

I can appreciate how disappointing it must be to remain dissatisfied after making a complaint about Firm A and involving the Ombudsman, particularly given the severe personal impact on you. However, the Scheme was not designed to allow consumers who are unhappy with the conduct of a regulated firm to challenge the conduct of that firm (that is the role of the FOS). Furthermore, to the extent that your complaint was about the FCA, I consider that the FCA was right to conclude that your complaint was one of general dissatisfaction: there is no evidence that the FCA has acted unprofessionally or unreasonably.

I am satisfied that the FCA was correct to decline to investigate your complaint, since it falls outside the Scheme. For that reason, I do not uphold your complaint.

The FCA provided you with some further information on Contracts for Difference (CFDs) and the relevant FCA regulations. You may have seen media coverage of the FCA's recent announcement on further controls on CFDs – see <https://www.fca.org.uk/news/press-releases/fca-proposes-strict-rules-contract-difference-products>. I have observed before that spread-betting on foreign exchange rates was relatively lightly regulated in comparison with other regulated activities such as payday lending, for example. That, coupled with the problems in the automated stop system arising during the unprecedented events surrounding the SNB's unpegging of the Swiss Franc, led to the serious losses which you and others suffered on 15 January 2015.

### **Conclusion**

Although I understand that you are unhappy with the FCA's decision not to investigate your complaint, I believe it was correct to do so and I 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