

28<sup>th</sup> February 2017

Dear Complainant

**Complaint against the Financial Conduct Authority**  
**Our reference: FCA00260**

Thank you for your email of 8<sup>th</sup> December 2016. On 8<sup>th</sup> February 2017 I wrote to you with my preliminary decision, on which you have not commented, so I am now in a position to issue you with my final decision.

**How the complaints scheme works**

Under the complaints scheme, I can review the decisions of the FCA 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.

**Your complaint**

I have reviewed all the papers you and the regulator have sent us. My decision on your complaint is explained below.

You complained to the FCA on various occasions during the summer of 2016. The FCA summarised your complaints as follows:

*Element One*

You feel the FCA has failed to adequately supervise the subsequent and consequent conduct of a firm after it had demutualised. You state your endowment mortgage was adversely affected when Firm A demutualised and feel the FCA should be doing more to ensure that Group B (the firm now managing the assets) is not currently interfering with the vested rights of former members.

*Element Two*

You feel the FCA has misapplied section 348 of the Financial Services Market Act 2000 (s348 FSMA) in stating it cannot supply any information on the investigation into Group B or provide you with details of what will happen with your information in relation to the firm.

*Element Three*

You state you had previously raised your complaint with the Complaints Team on 6 May 2016 and you are unhappy that we have no record of this complaint and it was therefore not acted upon.

The FCA did not uphold element one of your complaint. In its decision letter of 8<sup>th</sup> September 2016, the FCA said that your complaint about the circumstances of the demutualisation was out of time (because you had made it more than 12 months after the demutualisation, and had not satisfied the FCA that you had a good reason for doing so). However, the FCA did go on to explain in some detail the way in which the FCA deals with transfers of insurance policies (which includes the demutualisation to which you refer), including how it protects the interests of policy holders, and the FCA's supervisory process which could be used to consider changes to bonus payments outside policy holders' terms and conditions. You were invited to supply the FCA with any further evidence which you had about the way in which you consider your bonus payments were improperly changed following the demutualisation.

In relation to the second element, the FCA said that it had been correct to say that it cannot usually disclose details about investigations into the firms which it regulates.

Finally, the FCA upheld element three of your complaint, and apologised for its failure to follow up on your call of 6<sup>th</sup> May 2016.

In your email to me, dated 8<sup>th</sup> December 2016, you complained:

- a. That the FCA had failed to supervise the firm;
- b. That the FCA had wrongly excluded your complaint on time grounds – you had not been able to complain earlier, because you were waiting for the outcome of your complaint to the Financial Ombudsman Service (FOS).

### **My findings**

I have obtained the FCA's records, and have carefully considered your complaint.

In relation to the first element of your complaint, in my view the FCA was right to say that the circumstances of the demutualisation of the FCA were well out of time. I note that you say that you had to await the outcome of your FOS complaint, but in fact there is no reason why a complaint about the regulator has to await the outcome of a complaint about a firm. Having checked the FCA's website I have found nothing that suggests that you had to wait. I invited you to send me any evidence to show that you were advised to delay complaining, but you have not done so.

However, my understanding of the FCA's decision letter is that they have accepted that a complaint about their *continuing* supervision of the firm is not out of time, and they have invited you to send them any further evidence which supports your allegation of misconduct.

In the circumstances, I do not uphold element one of your complaint.

You have not explicitly asked me to comment on element two of your complaint, but I should say that in my view the FCA's explanation of the limitations upon the information which it can share is correct.

Finally, in relation to element three, the FCA has already apologised to you for the failure to respond to the call of 6<sup>th</sup> May 2016.

**Conclusion**

I appreciate that you will be disappointed with my decision not to uphold your complaint but hope that you will understand why I have reached it.

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