

21 July 2017

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00309**

Thank you for your email of 5 May 2017. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into your complaint. Before finalising my decision, I invited comments from both you and the FCA. I note you have chosen not to comment.

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.frccommissioner.org.uk. If you need further information, or information in a special format, please contact my office at complaints@frccommissioner.org.uk, or telephone 020 7562 5530, and we will do our best to help.

Your complaint

The background to your complaint is that you contacted the FCA Customer Contact Centre (CCC) on several occasions in January 2017 to raise concerns about a fund management company's application of AML rules. You believe that they are incorrectly requesting identity documents and incorrectly citing AML rules as the reason for this. The CCC informed you that they had recorded your information but they could not provide any feedback on what the FCA had done.

You then raised a complaint with the FCA Complaints Team who responded that the CCC had been correct stating they could not provide you with an update on how the FCA acted on your information. The FCA Complaints Team did, however, say that the explanation which you had been given about why you could not be told had not been completely accurate.

You were not satisfied with this response and referred your complaint to me.

My position

I can appreciate how frustrating it must be not to know in detail what has happened about the information you have provided to the FCA. However, as you have been advised by the FCA, there are confidentiality restrictions in place which limit what consumers can be told. This does not mean that the information which you supplied has been ignored.

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The FCA is a risk-based regulator and has discretion over which issues and concerns it decides to pursue. If it did decide to take any further action because of the information you have supplied, it would not be able to provide you with any compensation or redress, and most of the actions it takes are confidential, so it is unlikely that you would receive any further information from the FCA.

For those reasons, I think that the FCA were right not to uphold your complaint. However, having reviewed the correspondence, I would like to draw the FCA's attention to two points. First, in its correspondence with you the CCC stated "The FCA does not investigate complaints against the firms it regulates". I think this statement was unfortunate, since it gives the impression – wrongly – that the FCA ignores individual complaints. The point is that the FCA cannot resolve complaints between individuals and firms (that is the role of the FOS), but it can, and does, follow up individual complaints against firms where the information suggests that the firm may be posing a significant risk. This was explained elsewhere in the correspondence, but the FCA might wish to consider whether that wording should be avoided.

Second, in its decision on your complaint, the Complaints Team wrote: "It is not the role of the FCA to challenge legislation set by government". The FCA is, of course, correct that it must obey the legislation set by Parliament; but – as the decision letter explained – it was not only legislation which constrained the FCA from giving you feedback; and in any event, the FCA could make *suggestions* for improvements in legislation if it considered that desirable. The FCA has to tread a delicate line between promoting confidence amongst those who complain, and in protecting the proper confidentiality of its dealings with firms where that is necessary, but it should make it clear that it is open to suggestions for improvement.

Conclusion

Although I understand that you are unhappy with the FCA's decision not provide you with an update as to what action, if any, it has taken as a result of the information you provided, I believe it was correct to do so and, as a result, I am unable to uphold your complaint. I do, however, recognise that you have raised an important issue about how to promote public confidence in the system, and I have drawn the FCA's attention to two points which it might wish to consider.

I appreciate that you will be disappointed with my decision 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