

11th October 2017

Dear Complainant

Complaint against the Financial Conduct Authority**Reference Number: FCA00378****FCA reference: 204775371**

Thank you for your letter of 10th August 2017. I have now completed my review of the Financial Conduct Authority's (FCA) investigation into the complaint you made. I have also considered the comments you made in response to my preliminary decision.

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.

Your complaint

Your complaint is a straightforward one. The FCA have charged you an administrative fee of £250 for late filing of your GABRIEL return. It is not disputed that the return was not made by the due date.

In its decision letter of 7th August 2017, the FCA rejected your complaint on the grounds that the return had indeed been late, and that you had been sent several reminders to the correct email address.

In your letter to me, you say that that you can "categorically state" that you received no emails from the FCA, and that on a matter as important as the filing of FCA returns, the FCA should use letters rather than emails and/or should request a message delivery report when sending emails to check that they have been delivered properly.

My findings

I have looked carefully at the full record of the correspondence between you and the FCA on this complaint.

From the evidence available to me, I can see that when you applied for authorisation you signed a form confirming that you would be able to use the FCA's reporting system, and that you understood about your duties to submit reports. The form told you that, upon authorisation, you would receive instructions to enable you to register on the system.

The firm was sent an email welcome upon authorisation on 9th September 2016, explaining the importance of registering with GABRIEL, the returns the firm was required to submit, and that a £250 administration fee would be charged for each late report. The FCA also sent you two reminder emails. All three emails were sent to the email address which you had supplied, which is the same as the email address shown on the letter which you sent to me. I have checked the FCA records, and I can see all three emails.

The FCA has no record of an electronic notification to say that the messages could not be delivered. I conclude that the FCA took reasonable steps to inform you of, and remind you about, your responsibilities.

That takes me to the question of whether the FCA should, as a matter of policy, send such communications by post, or request delivery receipts. That really goes beyond the scope of this Complaints Scheme. However, I think it is relevant to point out that in applying for authorisation your firm – in common with other firms – was asked for, and supplied, an email address for communications. Emails are, of course, quicker and much cheaper than letters.

It seems to me that you have been treated like other firms, and that the FCA took reasonable steps to remind you of your obligations, and had no reason to believe that you had not received those reminders. Furthermore, you had been alerted to the need to register on the FCA's reporting system, and to submit regular returns, at the time you applied for authorisation.

The late returns fee is designed to cover the FCA's costs in pursuing late returns (so that firms who complete their returns on time do not subsidise those which do not), and in the circumstances I think it was reasonable for the FCA to charge you.

In your emails to me, you say that the FCA should send important communications by post, and that the £250 late returns fee is disproportionate (you have offered to pay £100 to settle the matter). The FCA may wish to consider that, but I am afraid that that goes beyond the limits of this Scheme.

Conclusion

For the reasons given above, I am afraid that I cannot uphold your complaint.

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