

## Final report by the Complaints Commissioner, 20<sup>th</sup> November 2017

### Complaint number FCA00404

#### *The complaint*

1. On 16<sup>th</sup> October 2017 you asked me to investigate a complaint about the FCA. I have carefully reviewed the papers sent to me by you and by the regulator, and considered the comments which you made in response to my preliminary decision.

#### *What the complaint is about*

2. The FCA summarised your complaint as follows.

*You have received a £250 late return admin fee for not completing your Gabriel return by the required deadline. You do not believe you should pay the admin fee because you did not receive a letter or email reminding you to submit the regulatory return.*

#### *What the regulator decided*

3. The FCA did not uphold your complaint. It said that you had been told what you needed to do when your firm was authorised, and you had been sent two reminders.

#### *Why you are unhappy with the regulator's decision*

4. You say that you never received the emails. You also say that you think it is unfair that the FCA only sends emails, and not even a "read receipt", when communicating with firms about their returns.

#### *My analysis*

5. There is no dispute about the facts of this case. I have checked the FCA's records, and they clearly show that you were sent an email on 8<sup>th</sup> June 2016, confirming your authorisation and telling you what you needed to do. The records also show that you were sent two reminders about the need to submit returns. All three of these emails appear to have been sent to the right address. You have repeated in your response to my preliminary report that you did not receive these emails.
6. Nonetheless, on the basis of the records I consider that the FCA did take steps to tell you about, and remind you of, your reporting obligations, even though the records do not show whether the emails were delivered. (I note that it seems likely that the 8<sup>th</sup> June 2016 email was delivered, since without that email you would not have known whether you were authorised.)
7. That leaves the question of whether the FCA should, as a matter of policy, send information of this kind by email. I have explored this question with the FCA in relation to another complaint. They have told me that, whenever an email bounces back marked undeliverable, they follow it up with a letter. In general, this system seems to work well.
8. I recognise that you feel strongly that the FCA should send letters in these circumstances. However, I do not consider that the FCA's position is unreasonable.

*My decision*

9. Having studied the records, I have concluded that the FCA took reasonable steps to inform you about, and remind you of, your obligations. The late returns fee is designed to recover administrative costs from firms which do not follow the processes, so that firms which do comply are not subsidising those which do not.
10. In the circumstances, I am afraid I cannot uphold your complaint.

Antony Townsend

20<sup>th</sup> November 2017