

14 June 2018

Final report by the Complaints Commissioner**Complaint number FCA00453***The complaint*

1. Your firm received an invoice for £250 on 5 February 2018 due to late submission of some of your firm's regulatory returns. However, you say that your firm did in fact submit all the returns on their due date, and therefore you should not be charged a late fee.

What the complaint is about

2. You explained to the FCA that you had submitted all the returns in question on 16 January 2018, which is the date they were due on, and that the FCA's system confirmed that they had been submitted. You have suggested there may have been a fault in the FCA's system which meant not all of your returns were successfully submitted. You also submitted a letter from your accountant, who had been present when you submitted the returns, in support of your complaint.

What the regulator decided

3. The FCA did not uphold your complaint. It explained that audit checks on the system did not show any irregularities on 16 January 2018, and that the audit trail for your account showed that of the 11 returns due on 16 January, the RMA-A, RMA-B, RMA-C, RMA-D1 and RMA-E returns were validated and submitted but the RMA-F, RMA-G, RMA-H, RMA-I, Complaints and CCR-Complaints returns were validated but not submitted.

Why you are unhappy with the regulator's decision

4. You referred your complaint to me, saying that you are certain that the firm completed all the returns, and you attached a letter from your accountant who was with your managing director when the returns were submitted and who also confirmed this.

My analysis

5. I have reviewed the GABRIEL system audit trail for your firm's submissions on 16 January 2018, the FCA's investigation, and your accountant's supporting letter.
6. Your accountant says that an unplanned absence meant he attended your offices late, by which time the managing director had completed the returns not requiring accounting information, and he then sat down with the managing director to complete the rest, including Regulatory Capital, Balance Sheet and Profit and

Loss, and that after about two hours of work the returns were validated and submitted.

7. The FCA investigated your complaint thoroughly, though its letter did not provide as full an explanation as it might have done. Looking at the detailed audit trail provided by the FCA, I can see that a firm user logged on at 9.22am on 16 January 2018 and worked on returns RMA-F, RMA-G, RMA-H, RMA-I, Complaints and CCR-Complaints which were validated but not submitted. The user then logged off at 10.03 am. From the audit log and the accountant's letter I assume these were the returns the managing director completed on his own.
8. At 11.15 am on the same day the firm user logged on again and after about two hours, at 1.21 pm, logged off. During this period, the record shows that the Regulatory Capital, Balance Sheet, Profit and Loss and two other returns were validated and submitted. These are the returns the accountant says he worked on with your managing director for about two hours (see paragraph 6 above), and they were indeed all validated and submitted.
9. The FCA audit trail is clear as to what happened on the day, and I have no reason to doubt it. The record – which shows every transaction in detail - confirms that the returns (completed between 9.22 am and 10.03 am on 16 January 2018) were not submitted. It is clear that your firm completed the returns on 16 January, and I have no doubt that you intended to submit all the returns, but unfortunately the record is clear that a number of them were not.
10. I have looked at the messages which the system displays. Validated items are highlighted in green, and it is possible that a user might interpret this as successful submission, although there is a message underneath explaining that the record must be submitted. It is also the case that there does not appear to be a simple way to view the status of all returns on one page. Unfortunately, that does not detract from the fact that some of your firm's returns were not submitted, although I accept this was an inadvertent error. The FCA has informed me that improvements to the Gabriel system are due to go live this month which will address the issue of colour so that submitted returns will show as amber rather than green.
11. Although I recognise that you clearly had every intention of submitting all 11 returns on the due date, the detailed record strongly suggests that not all 11 were submitted. Unfortunately, human error is not sufficient for either the FCA or myself to suggest waiving the fee.

My decision

12. For the reason above, I am unable to uphold your complaint. I appreciate you will be disappointed, but I hope you understand the reasons why.

Antony Townsend

Complaints Commissioner

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