

6 November 2018

**Final report by the Complaints Commissioner****Complaint number FCA00510***The complaint*

1. On 24 September 2018 you asked me to investigate a complaint against the FCA.

*What the complaint is about*

2. You invested £5,000 in a corporate bond purchased through company C in May 2017. You have lost £5,000 after investing with the firm and feel the FCA has let you down by failing to provide relevant information, and failing to act to assist you in recovering the money you have lost.

*What the regulator decided*

3. The FCA did not uphold your complaint. It said that when you contacted the FCA's Consumer Contact Centre (CCC) on 3 May 2017 you had not yet purchased the bond. The CCC informed you that the company was not regulated, you were informed about the possibility of scams and you were told to contact the Citizens Advice Bureau or seek legal advice before purchasing the bond.
4. The FCA did say that the details you had given to it should have been passed to the Unauthorised Business Division within the FCA, although this would not have affected the advice which you were given.

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

5. You have complained that the FCA decision is based on assumptions and that you had in fact purchased the bond at the time you placed the call to the CCC.
6. You say that you phoned the CCC on 3 May 2017 to report suspected fraud, but the associate you spoke to was 'non professional' and 'did not transfer me or my

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call, to FCSA Unregulated Business Department (UBD) for their immediate action to trace money laundering immediately.'

7. You would like the FCA to reimburse you the £5,000 you lost through company C, as you feel the FCA failed to investigate the firm and assist you with recovering your losses.

*Preliminary points (if any)*

8. My role is to investigate complaints about the FCA. I cannot deal with complaints about the other agencies you refer to, such as National Intelligence Fraud Bureau (NCIB), or Action Fraud.

*My analysis*

9. I am very sorry to hear about your losses. However, my job is to determine whether the FCA failed you in any way and, if so, whether this had an effect upon your financial loss.
10. I have listened to the recording of the telephone call between you and the CCC on 3 May 2017. You telephoned the CCC to enquire about the cooling off period on a corporate bond you were about to purchase from company C for an entity in Switzerland. You said you had signed an agreement to invest but had not invested yet, and the paperwork said you would not be able to cancel the purchase of the bond. You wished to know if there was a law that entitled you to a cooling off period.
11. You did not allege or report fraud during the telephone conversation.
12. It is clear from the recording that you told the associate that you had not invested the £5,000 into the bond at the point of the call.
13. The CCC associate informed you that:
  - a. The firm was not authorised or regulated by the FCA and therefore there were no specific rules about a cooling off period as there would be with FCA regulated products. The associate advised you to seek Citizens Advice Bureau (CAB), independent legal advice and/or check the terms and conditions of the bond offer letter if you wanted more information about the cooling off period about the specific product.

- b. Cold calling could be associated with scams and you should telephone the FCA before investing to see if the firm is regulated before investing with it.
  - c. If you had doubts about continuing with the purchase for any reason, you should call the CAB. The associate gave you the telephone number for CAB.
14. I consider the FCA member of staff gave you sufficient information and guidance to enable you to understand that company C and the bond they were trying to sell you were not regulated; to explain what your options were with respect to the purchase and what to do if you did not wish to go through with the purchase; and to warn you that cold callers asking you to invest over the phone might be fraudsters.
15. In response to my preliminary decision, you repeated your complaint that you were not dealt with professionally by the CCC, and that you should have been put through to the Unauthorised Business Department. Having listened carefully to the recording, I consider that the FCA member of staff was professional and helpful. In the course of its investigation, the FCA Complaints Team identified that the information which you gave in the phone call should have been passed on to the Unauthorised Business Department, and the Complaints Team has reported this to the CCC to avoid a recurrence. However, this had no effect upon the advice which you were given, nor would it have affected your financial position. The Unauthorised Business Department deals with information about unauthorised activities so that regulatory action can be taken, but it does not settle individual complaints.
16. From the evidence available to me, it appears that you did not phone the CAB for advice but instead chose to proceed with the purchase of the bond on 4 May 2017.

*My decision*

17. The FCA told you on 3 May 2017 that Company C was not authorised or regulated, that cold callers asking for investments over the phone might be fraudsters and that you should seek further independent legal advice and contact the CAB if you wished to discuss your pending investment. This was good advice.

18. You chose to invest in company C in an unregulated product. It is very unfortunate that you have lost your investment, but that is not the fault of the FCA.
19. I appreciate that you would like the FCA to investigate company X for fraud and recover your money. However, the primary regulator for fraud is the NCIB, which you have already contacted.
20. Finally, you have said that you would like your 'case be considered by independent arbitrator or adjudicator or Court decision'. It is my role to review complaints against the FCA independently, which I have done. There is no other independent investigator who can review your complaint against the FCA. You could approach the courts if you wish to bring legal proceedings or a judicial review of my decision. However I suggest you should take legal advice before doing so, which would be at your own expense.
21. You have also asked for details of those overseeing the work of the FCA. The Government department with responsibility for FCA matters is Her Majesty's Treasury – contact details are at <https://www.gov.uk/government/organisations/hm-treasury>.
22. The Parliamentary body which oversees the FCA is the Treasury Committee. You can find its details at <https://www.parliament.uk/business/committees/committees-a-z/commons-select/treasury-committee/>.

Antony Townsend  
Complaints Commissioner  
6 November 2018