

3 April 2019

Final report by the Complaints Commissioner**Complaint number FCA00551***The complaint*

1. On 11 February 2019 you complained to me about the FCA's actions in relation to a financial services firm, LCF.

What the complaint is about

2. You had invested money in mini-bonds. The FCA directed the firm in which you had invested to cease communicating any financial promotions, and not to dispose of its assets without permission. The FCA began an investigation into LCF. The firm subsequently went into administration. Your complaint is that the FCA's actions caused the loss of your investment, when the firm could have been allowed to continue to trade.

What the regulator decided

3. The FCA deferred its investigation into your complaint. It said:

This is because your complaint is connected with, or arises from, some form of continuing action by the FCA. In this case the ongoing action is the FCA's investigation into LCF.

We are generally only able to begin investigating a complaint after any ongoing action is finished. Once that action is finished, we will write to you to confirm so that you have the option to continue with your complaint if you wish to.

The Complaints Scheme (the Scheme) sets out what the FCA will do in circumstances where there is continuing action at the time a complaint is made. Paragraph 3.7 of the Scheme states:

'A complaint which is connected with, or which arises from, any form of

continuing action by the regulators will not normally be investigated by either the regulators or the Complaints Commissioner until the complainant has exhausted the procedures and remedies under FSMA (or under other legislation which provides for access to the Scheme) which are relevant to that action. The complainant does not have to be the subject of continuing action by the regulators for this provision to be engaged. An investigation may start before those procedures are completed if, in the exceptional circumstances of the case, it would not be reasonable to expect the complainant to await the conclusion of the regulators' action and that action would not be significantly harmed.'

Why you are unhappy with the regulator's decision

4. In your email to me, you repeat your concern that the FCA's actions meant that it was inevitable that the firm would go bust. You ask why the FCA did not allow the firm to continue to operate and work with the firm to resolve the problems.

My analysis

5. The FCA was clearly right to say that there was continuing action relating to the firm. For that reason, it was entitled under the rules of the Scheme to defer consideration of the complaint. I uphold the FCA's decision to defer your complaint, on the basis that it will consider it at a later point.
6. Having said that, I thought it might be helpful to mention three things. First, in addition to the link (<https://www.fca.org.uk/news/news-stories/london-capital-and-finance-plc-enters-administration>) which the FCA included in its letter to you, which gives considerable information about the FCA's actions including actions to secure the firm's assets, the FCA has also published a supervisory notice - <https://www.fca.org.uk/publication/supervisory-notices/second-supervisory-notice-london-capital-and-finance-plc-2019.pdf> - which gives further details.
7. Second, although I am not in a position to make a judgement about the FCA's actions in this particular matter, it is not unusual in cases of this nature for the regulator to have to make difficult decisions about how to protect the interests of both existing and future clients of a firm – those interests may not be the same.

8. Third, the FCA has deferred consideration of your complaint until its investigation has concluded. It is an unfortunate fact that some investigations take a considerable period to conclude. For that reason, I consider that the FCA should undertake to review the deferral of your complaint (and any others) every six months, so that they can begin to deal with it at the earliest opportunity (which may be before the ultimate completion of any regulatory action).

My decision

9. I uphold the FCA's decision to defer your complaint, but I **recommend** that that decision is reviewed every six months so that your complaint can be dealt with at the earlier possible opportunity. The FCA has accepted this recommendation.
10. I recognise that what you are seeking is a declaration that the FCA's actions have caused your losses: I am afraid that that question will have to wait until your complaint is considered when the deferral ends.

Antony Townsend

Complaints Commissioner

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