

30 April 2019

**Final report by the Complaints Commissioner****Complaint number FCA00556***The complaint*

1. On 8 March 2019 you asked me to review your complaint about the FCA's oversight of bank X.

*What the complaint is about*

2. The FCA summarised your complaint as follows:

*You took out two loans in circa 2009 to pay for a timeshare, that you believed was an investment. You had issues with the timeshare and stopped paying for the loans. You have forwarded a letter that you say is from a lawyer that says a court has said that the timeshare contract is not binding and the loans should not have been given to you.*

*You have been in contact with the FCA's Customer Contact Centre (CCC) about this and are unhappy that the FCA will not become involved with your individual complaint relating to the timeshare and loan.*

*What the regulator decided*

3. The FCA excluded your complaint from the Complaints Scheme on the basis that it does not get involved in individual complaints against firms. However, it told you that the information you had provided to it would be made available to the relevant FCA supervisory team. Unfortunately, due to confidentiality restrictions, you might not be told what action, if any, the FCA will undertake.

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

4. You have not been able to resolve your dispute with bank X, either directly or through the Financial Ombudsman Service (FOS). You do not think that your complaint has been looked at properly.

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*Preliminary points*

5. My role as Complaints Commissioner is to review the actions or inactions of the FCA. I cannot review complaints against the FOS or financial services firms. If you wish to complain about the FOS, please contact it directly for further information.

*My analysis*

6. You took loans out with bank X to invest in timeshares. You were unhappy with the timeshare investment and stopped paying your loans. You believe you have a claim against bank X under s section 75 of the Consumer Credit Act under which a bank can be held responsible for certain actions of the supplier of goods where the bank has lent money to a consumer to buy those goods.
7. You have complained both to bank X and the FOS but the matter has not been resolved to your satisfaction.
8. You say that you now have new evidence and you have approached the FOS once again to re-open your case. The FOS has asked you to first make your complaint to bank X so it can be given an opportunity to consider whether this new evidence changes its position on the s75 claim.

*My decision*

9. I am sorry about the difficult situation in which you find yourself, but I agree with the FCA's decision to exclude your case. It is the role of the FOS, and not the FCA, to resolve disputes between consumers and businesses. You have followed the correct process of contacting the FOS with your concerns about bank X, and neither the FCA nor I can become involved in this matter. I do not think that the FCA has done anything wrong.
10. You also raise a wider point about the timeshare industry and some of its practices, but that does not appear to fall under the FCA's regulatory remit.
11. I realise you are unhappy about my decision, but I am afraid that cannot help you further under the Complaints Scheme.

Antony Townsend

Complaints Commissioner

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