

8 October 2019

Final report by the Complaints Commissioner**Complaint number FCA00644***The complaint*

1. On 9 September 2019 you asked me to investigate a complaint which you had made against the FCA.
2. I was sorry to hear about the problems which you, in common with a large number of other people, had encountered in relation to investments with Collateral.

What the complaint is about

3. In its decision letter dated 7 August, the FCA described your complaint as follows:

Part One

You allege that the FCA's actions, in forcing Collateral (UK) Ltd (Collateral) to close, have put investor monies at greater risk.

Part Two

You allege that the FCA has been incompetent in failing to secure the investor database and website after knowing that things were not right.

Part Three

You allege it was a major oversight on the part of the FCA in appointing costly administrators, which amounts to dissatisfaction with the FCA's choice of administrator.

Part Four

You have expressed dissatisfaction with the fees being charged by the administrators as part of the administration process, which you say has cost dearly in forensic accounting costs. You believe your investment is at risk of being used to pay for the highly expensive administrators appointed by the FCA.

Resolution

To resolve your complaint, you have stated you would like compensation from the FCA for any loss incurred, which you say should amount to a full reimbursement of capital and interest due.

What the regulator decided

4. The FCA explained to you that it had deferred considering parts one and two of your complaint because considering them now might jeopardise the continuing enforcement action being taken against Collateral. It would review the position every six months, and investigate your complaint as soon as it was safely able to do so.
5. The FCA rejected part three of your complaint, and gave you a detailed explanation of why it had selected proposed administrators, and how the administrators had been appointed by the courts.
6. The FCA said that part four of your complaint was outside the scope of the Scheme since it was a complaint about the administrators, not about the FCA.

Why you are unhappy with the regulator's decision

7. In your email to me you say that you are unhappy with the FCA's response.

My analysis

8. I have had a number of complaints about the FCA's supervision of Collateral, and I have discussed the matter with the FCA. The FCA is correct to say that, under paragraph 3.7 of the [Complaints Scheme](#), investigations of complaints can be deferred where there is continuing regulatory action which might be undermined by the consideration of the complaint.
9. I agree with the FCA's decision to defer your (and other similar) complaints for the moment, as it is likely that the regulatory action will produce material which is relevant to your complaint. I also think it would be unhelpful if the FCA Complaints Team were to undertake an investigation into these matters in parallel with the regulatory investigation.
10. I have, however, asked the FCA to review the status of the complaints every six months to ensure that the complaints are considered as soon as possible, and

the FCA has agreed to do so. I will be seeking a progress report from the FCA every six months, and will keep you, and other complainants, updated.

11. I realise that this continuing delay is likely to be frustrating for you, but I hope you will understand that, in my view, it is the best means to ensure that your complaint is thoroughly considered.
12. For those reasons, I consider that the FCA's decision to defer parts one and two of your complaint was reasonable.
13. In relation to part three, the FCA has given you a very full explanation of why it found it necessary to replace the original administrators. In my view, that explanation is compelling. It also explained that its proposal was subject to the decision of the court, so the actual appointment was made by the court, not the FCA. In those circumstances, I agree with the FCA's decision not to uphold part three of your complaint.
14. Finally, in relation to part four, the FCA has explained to you that the charges made by the administrators are not a matter for the FCA. You can raise any concerns at the creditors' committee, or make a complaint direct to the administrators or the Insolvency Service. For those reasons, I agree with the FCA that part four is not a complaint for this Scheme.
15. In your comments on my preliminary report, you repeated your argument that it was the FCA which sought the court's approval for a change of administrators, and it was as a consequence of the FCA's choice that the administrators' charges were so high. I understand your argument, but it does not change the fact that it was the court which made the final decision and that, as explained above, there are other ways in which the charges can be challenged.

My decision

16. I am sorry to disappoint you, but I agree with the FCA's decisions:
 - a. To defer parts one and two of your complaint. (Please note that, when the FCA has investigated those matters, if you remain dissatisfied you can come back to me and ask me to investigate.);
 - b. Not to uphold part three;

- c. To conclude that part four is not a matter for this Scheme, since you have other more appropriate means by which to pursue it.

Antony Townsend

Complaints Commissioner

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