

22 April 2020

Final report by the Complaints Commissioner**Complaint number FCA00703***The complaint*

1. You complained about the FCA's Market Abuse team's handling of the information you provided in 2016 about Firm X, in which you had investments.

What the complaint is about

2. You had invested in Firm X and you had concerns about the activities of this firm, specifically in relation to potential market abuse activities, which you reported to the FCA in 2016. You received automated acknowledgements and you believe that means the FCA did not handle the information you provided appropriately, and that the delays in dealing with the information you provided affected your investment and caused losses. You asked for:
 - 1) number of actions and the dates of those actions
 - 2) to whom such actions were addressed to
 - 3) response from those involved in the actions
 - 4) the Market Abuse team reports of those actions
3. The FCA "investigated whether the FCA has acted appropriately in its handling of your initial submissions to the FCA Market Abuse team." In your comments to my preliminary report, you stated that, in your view, not only did the FCA not act appropriately, it did not act adequately.

What the regulator decided

4. The FCA did not uphold your complaint because it believes your correspondence was handled in line with its published policies and confidentiality restrictions.

Why you are unhappy with the regulator's decision

5. You believe that the FCA should have told you that it was not investigating your concerns or at least should have informed you that it had no comment, but "instead I was led to believe that a 'sensitive investigation' was in being".

My analysis

6. You contacted the FCA in September 2016 through the Supervision Hub, then called the Consumer Contact Centre, and informed it that you had concerns about Firm X. You were advised to send the information to the FCA's Market Abuse Team, which you did on 7 September 2016.
7. You contacted the FCA again on 26 September 2019, 7 October 2019, 17 October 2019, 23 October 2019, 24 October 2019, 31 October 2019, 30 December 2019 and 13 January 2020 with further concerns about the same firm.
8. You confirmed that you received automatic acknowledgements to your emails. You also state that you took the lack of a negative response from the FCA's Market Abuse Team as confirmation that they were actively investigating your concerns.
9. These automated responses explained that your information had been passed on to the appropriate department for review and possible action but that, for confidentiality reasons, it might not be possible to update you about any further work which might be undertaken.
10. Furthermore, the same information is confirmed on the Market Abuse Team's webpage, see the following link: <https://www.fca.org.uk/markets/market-abuse>. According to the date stamp on the website, this page was created on 4 May 2016, so it was available at the time you submitted your information to the FCA.

11. Both the automated email and the website confirm that no updates about what the FCA does with the information provided to it will be given due to confidentiality restrictions.
12. You state that in your view you do not fall into the category of persons who would not be given feedback based on the information in the automated email response, because as a nominee investor, you believe you fall into the “firm” category and you should have been given an update about the actions of the Market Abuse Team.
13. I do not agree with this analysis. Whilst it is not my role to interpret legislation (that is the role of the courts) you were clearly not contacting the FCA as an authorised firm making a “suspicious transaction and order reporting” regime of the Market Abuse Regulations. If you had been, you would have used the FCA’s systems put in place for such reports, not the email address maintained for third parties.
14. Furthermore, you were not treated as a whistle-blower nor did you contact the FCA’s Whistleblowing Team. You state that as the CCC confirmed to you in a letter dated August 2016 that it would be forwarding your letter to the Market Abuse Team and that you would be contacted directly if it needed further information, in your view you were accepted as a whistleblower by the FCA at that time.
15. I do not agree with this conclusion. The wording you refer to is standard wording used by the CCC. Even if you had been treated by the FCA as a whistleblower, that would not have entitled you to detailed feedback about the decisions and actions of the relevant FCA teams.
16. The records provided to me by the FCA confirm that the information you provided to the FCA, both in 2016 and during the course of 2019 and early 2020, was considered by the relevant area of the FCA in accordance with its procedures. In my view, the FCA did not act unreasonably in the way it treated the information it received from you.
17. I do not consider that the information on the FCA’s website or the contents of the automated emails you received implied that the absence of a response or at least a “no comment” should have led you to believe that an investigation was

under way. In my view, the information which you were given was quite clear, and you were not in any way misled.

My decision

18. For the reasons set out above, I do not believe the FCA acted unreasonably in the way it dealt with the information you provided it with or in its investigation of your complaint and I do not uphold your complaint.

Antony Townsend
Complaints Commissioner
22 April 2020