

29 June 2020

Final report by the Complaints Commissioner**Complaint number FCA00734***The complaint*

1. On 5 May 2020 you confirmed that you wanted me to investigate a complaint about the FCA.

What the complaint is about

2. In its decision letter of 26 March the FCA summarised your complaint as follows:

You're unhappy with the FCA's new overdraft rules. According to HSBC the FCA has forced them to charge consumers 40% interest rate charges in overdraft fees.

To resolve your complaint, you want the FCA to change its rules so that banks are not forced to impose the same rate on consumers that have arranged overdrafts as they do for consumers with unarranged overdrafts. You believe that customers with arranged overdrafts are being unfairly punished.

What the regulator decided

3. The FCA told you that, because your complaint was about rules made by the FCA, it was excluded from this Complaints Scheme. For that reason, the FCA would not investigate it. However, the FCA gave you a full explanation of the reasons behind the new rules which it had imposed upon the banks. The FCA also said:

We did recognise that banks and building societies might increase the price of arranged overdrafts, and we therefore made rules that require these firms to have arrangements in place to help customers who may be worse off because of pricing changes. We have also been clear that we expect banks and

building societies to take positive steps to help customers who may be worse off or in financial difficulties as a result of the changes.

Why you are unhappy with the regulator's decision

4. You believe the FCA has given 'no reasons either commercially or otherwise why an authorised overdraft to a customer who has taken the trouble to arrange it, and whose creditworthiness has been assessed, should pay the same rate as someone who has merely overdrawn without any prior discussion.'
Consequently, you 'see no basis upon which the FCA could have rationally come to a decision to introduce such a rule.'

My analysis

5. The FCA was right to say that, because your complaint was about rules, it would not be investigated under this Scheme. However, it gave you what seems to me to have been a full and helpful explanation of the thinking behind the new rules, which were introduced following a full economic analysis which showed that most customers would be better off as a result.
6. Furthermore, the FCA – recognising that some customers would be worse off – placed requirements on banks to support people who may be affected by the higher charges.
7. Whilst it is unfortunate that you are negatively affected by these changes, the overall expected impact does appear to be beneficial on a larger scale, and the FCA is monitoring the impact of the changes, welcomes feedback from consumers about the effects on them, and appears to be ready to intervene if the actual results are not as it expected. The FCA's policy statement, including a reference to the fact that it is monitoring the effects of the changes, can be found here: <https://www.fca.org.uk/publications/policy-statements/ps19-16-high-credit-review-overdrafts>.
8. The FCA has explained to you in its decision letter that you have the option of approaching your bank and/or the Financial Ombudsman Service if you are adversely affected by the change in rates. Additionally, you have the option to switch bank accounts as you may find more favourable terms with another provider.

My decision

9. I have sympathy with your situation. I understand you remain unconvinced that the new rules are reasonable, and that you are not persuaded by the FCA's reasons for introducing the new rules on overdraft changes, but I consider that the FCA was right not to investigate your complaint. While you may disagree with the FCA's reasons for introducing the new rules, it appears to have made the changes following public consultation and careful analysis, and is committed to reviewing their effect.

Antony Townsend

Complaints Commissioner

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