

6 July 2020

Final report by the Complaints Commissioner**Complaint number FCA00737***The complaint*

1. You have asked me to investigate a complaint about the FCA Financial Services Register (the Register).

What the complaint is about

2. The FCA summarised your complaint as follows:

Part One

In February 2019, you invested £8,001.31 of your money with [firm X] who stated they were FCA registered (Authorisation number [Y]). You checked these details with the Register to ensure firm X was an authorised company. On 10 May 2019, you learned [firm X] was a 'scam' company and lost your money. You believe that the FCA was negligent by falsely stating that [firm X] was an authorised company causing you financial loss.

Part Two

When you spoke to the FCA Supervision Hub on 22 May 2019 you were advised that [firm X] was registered with the FCA with the authorisation number [Y] although you were provided names of companies authorised under the authorisation number [Y] on an earlier call on 14 May 2019 and [firm X] was not listed. You state you were incorrectly advised in relation to this.

What the regulator decided

3. The FCA did not uphold your complaint. Regarding Part One. It explained that firm X was an Austrian firm which had been registered in 2005 under the

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European Economic Area (EEA) passporting arrangements, and explained to you what those arrangements are.

4. The FCA explained that at some point a clone firm appropriated the identity of firm X. Such clone firms 'appear to be authorised and legitimate at face value. However, they are set up using similar sounding names or contact details and authorisation details of genuine firms to confuse consumers into believing they are genuine'. You lost your investment to fraudsters who were impersonating a genuine firm. and the FCA said it cannot be responsible for your losses.
5. Under Part Two of your complaint, the FCA explained that in early 2019 it had begun receiving reports about unauthorised business activity relating to firm X. The FCA explained that 'to reduce risk to consumers this firm was temporarily removed from being viewed on the register whilst the FCA check with the Austrian authorities.' The FCA did not think you had been 'misadvised' by the Supervision Hub when you approached it to report your concerns.

Why you are unhappy with the regulator's decision

6. You believe the FCA is claiming firm X never appeared on the register whereas you are certain that it did.
7. You believe firm X is fictitious and had been hacked into the FCA server so it could appear on the FCA register. You think the FCA should conduct a forensic investigation to establish whether firm X did indeed appear on the FCA register in January and February 2019. (Element One)
8. You do not think that the FCA's explanations under Part Two of your complaint have any direct relevance to your complaint (Element Two)

My analysis

Element One

9. Firm X, in which you invested in February 2019, did appear on the FCA Register until March 2019 with reference number Y. The FCA has acknowledged this, and explained to you that firm X was a genuine Austrian firm which had been given an EEA inward passport to provide certain financial services in the UK. The FCA further explained firm X had no associated contact details provided by the Austrian Regulator.

10. The FCA does not dispute that that you may have checked the firm's name and reference number on its website in January or February 2019 and found the firm to be registered. Indeed, it was showing on the register until March 2019.
11. The FCA began to receive reports about unauthorised business activity relating to firm X in the early part of 2019 and began an investigation into the activities of this firm, in conjunction with a review of other Austrian firms which had a similar EEA inward passporting licence.
12. As part of this review, the FCA masked the firm from the register and issued a clone warning on 28 March 2019. This was done to protect consumers from being defrauded by the clone firm.
13. I appreciate that by the time the FCA took the steps above, you had already been defrauded by the clone firm X. I have reviewed the FCA file and consider that the steps it took were reasonable. Unfortunately, the alert it issued on the register came too late to stop you making your investment on 7 February 2019, but that does not mean that the FCA was responsible for your loss.
14. In conclusion, firm X was a genuinely registered firm which was cloned by fraudsters who impersonated the details of the legitimate firm in order to defraud investors such as you. I am very sorry to hear about your losses, but you lost your investment to fraud and the FCA cannot be held responsible for that.

Element Two

15. The FCA agreed the scope of Part Two of your complaint with you. It investigated your interaction with the FCA Supervision Hub in May 2019 after you had discovered that you had been a victim of fraud. The FCA was able to locate only email correspondence between you and the Supervision Hub. The Supervision Hub first emailed you to say that firm X was not authorised but that a clone firm was operating under that name, and later it emailed you to say another firm held the reference number Y and you should contact the Austrian Regulator. The FCA decided that you had not been misadvised about firm X's authorisation status.
16. I disagree with the FCA on this point. Whilst the FCA decision letter to you clearly explains the position regarding firm X, I do not believe the Supervision

Hub explained this to you clearly, and its explanations would have added to your confusion at a time when you were clearly distressed.

17. I recommend the FCA apologise to you for providing you with confusing information, although I should add that this confusion had no effect on your investment losses. The FCA has explained that some of the confusion arose because you quoted an incorrect registration number, but it nevertheless accepts this recommendation.

My decision

18. For the reasons given above, I do not uphold Element One of your complaint. I am sorry to hear about your losses, but the FCA is not responsible for this.
19. I uphold Element Two of your complaint. I do not think the Supervision Hub was clear in providing you with information. I recommend the FCA apologises to you for this, and it has agreed to do so, but I should add that this does not mean the FCA is responsible for your losses.
20. I appreciate your view remains that the FCA is responsible for your losses but I have seen no evidence that that is the case, for the reasons I have given.

Antony Townsend
Complaints Commissioner
6 July 2020