

1 September 2020

Final report by the Complaints Commissioner**Complaint number FCA00750***The complaint*

1. On 19 July 2020 you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

You contacted the FCA's Supervision Hub (the Hub) with a complaint about [firm X], that was previously regulated by the FCA. You are unhappy that the FCA will not intervene in the matter.

What the regulator decided

3. The FCA said it would not investigate your complaint for two reasons:
 - a. First, it said that paragraph 3.3 of the Complaints Scheme states that complaints should be made within 12 months of the date on which the complainant first became aware of the circumstances giving rise to the complaint. You have been aware of the above matter since at least 2014, more than 12 months ago.
 - b. Second, it said that paragraph 1.1 of the Complaints Scheme states that it is in place to deal with complaints that arise from the exercise of or failure to exercise any of the FCA's relevant functions. It is not a relevant function of the FCA to investigate individual complaints about regulated, or previously regulated, firms.
4. The FCA provided you with additional information about the firm you were complaining about, including the fact it has not been authorised by the FCA since 2015, and confirmed that you should refer your complaint to the Financial Ombudsman Service (FOS).

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Why you are unhappy with the regulator's decision

5. You have written extensively about your concerns about this matter. I can summarise your points as follows:
 - a. You are unhappy with the FOS decision on your complaint and you have provided your reasons for this (element one).
 - b. You feel your complaint with the FCA should not be out of time and you would like the FCA to intervene in a regulatory capacity in your dispute with the firm (element two).

Preliminary points

6. Under paragraph 3.4 of the complaints scheme I cannot review complaints against the FOS. I appreciate you are not happy with the FOS decision, but I cannot intervene or review it. Therefore, element one is excluded from the Scheme.

My analysis

7. The main source of your complaint is that firm X did not pay a claim under a guarantee it issued you (and others) with effect from January 2014.
8. You contacted the FCA in 2014 and again in 2020 about this matter. You were seeking the FCA's help in getting firm X to pay the claim. The FCA departments you dealt with in 2014 did not fully understand your complaint, and I believe more could have been done to establish the facts of your case, but I do not think ultimately this has a bearing on the outcome of your complaint.
9. The FCA is right to say that it does not resolve individuals' complaints against the firms it regulates: that is the role of the FOS.
10. This Complaints Scheme is concerned with the actions or inactions of the FCA. It cannot deal with complaints against banks, individual firms or against the Financial Ombudsman Service (FOS), nor is it a redress service for individual consumer complaints. The Financial Services and Markets Act 2000 explicitly provides for a consumer redress service separated from the FCA.
11. In your response to my preliminary report, you have made the point that the FCA has a duty to protect consumers. The FCA does have a statutory duty to secure an appropriate degree of protection for consumers. It does so by regulating the

financial industry through the setting of standards which firms must meet, and by taking enforcement action where that is justified. It does not investigate and provide redress for individuals' complaints against the firms it regulates: that is the role of the FOS.

12. That does not mean that the FCA cannot investigate concerns arising from information about individual complaints, but it investigates those in the context of considering whether or not regulatory action is justified, rather than whether or not the individual requires redress. Any action the FCA may or may not take as a result of the information you provided would not lead to redress for you personally.
13. The fact that a firm may have done something which justifies redress does not automatically mean that regulatory action is justified – that would depend upon the scale of the problem, and the risk of recurrence.
14. Based on the information I have seen in this case, I am satisfied that the FCA's Supervision Team has been passed the information you provided. However, due to confidentiality restrictions, neither the FCA nor I can disclose to you what action, if any, is taken.

My decision

15. I have sympathy with your circumstances, and I understand you feel the FCA ought to intervene in your dispute with firm X, but this is not how the regulatory system was set up. I have explained to you the role of the FCA and FOS. I understand that you have approached the FOS: that was the correct course of action. The option of legal proceedings is also open to you. I appreciate you do not accept my position, but I do not uphold your complaint for the reasons given above.

Antony Townsend
Complaints Commissioner
1 September 2020