

10 September 2020

Final report by the Complaints Commissioner**Complaint number FCA00776***The complaint*

1. On 14 July you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

In your complaint made on the 25 August 2019, you alleged that the FCA took no action following the information you provided to the FCA Supervision Hub on the 9 April 2019. The information you provided concerned the actions of [Firm X]'s Directors in relation to their purchase of shares and the timing and nature of certain announcements about one of their subsidiaries.

What the regulator decided

3. The FCA did not uphold your complaint. It said the information you had provided had been passed to the FCA Market Intelligence Unit (MUI) where it had been assessed, but due to confidentiality, the FCA could not provide you with information as to what action, if any, the FCA would undertake as a result of the information you provided.

Why you are unhappy with the regulator's decision

4. You hold shares in firm X and remain of the opinion that firm X directors were engaged in share price manipulation and you believe the FCA should have taken action. In response to my preliminary report you said that you were detrimentally affected (although you do not say how), but that you are not looking for financial compensation. You feel that the directors were acting against the spirit of good corporate governance.

My analysis

5. The regulator welcomes information from people who report concerns. However, as you were told, the FCA does not generally say what action has been taken in response to the information that it receives. This is because section 348 (s.348) of the Financial Services & Markets Act 2000 (FSMA) classes some information the FCA holds about firms as confidential, and restricts how that information is dealt with. In addition to this, any information that is not restricted by s.348 FSMA may be restricted due to the FCA's policy on sharing information about regulated firms and individuals, who also have legal protections. Under this policy, the FCA will not normally disclose the fact of continuing action without the agreement of the firm concerned. There is a good explanation of the statutory and FCA policy restrictions on information sharing at <https://www.fca.org.uk/freedom-information/information-we-can-share>. This means that, as you were told, there is no general right for members of the public to know the outcome of reports that they make.
6. Like the FCA, I am required to respect confidentiality. This means that sometimes I cannot report fully on the confidential material to which I have access. However, as part of the Complaints Scheme, I have access to all the FCA's complaints papers, including confidential material. This is so that I, as an independent person, can see whether I am satisfied that the FCA has behaved reasonably. Sometimes this means that all I can say to complainants is that, having studied the confidential material, I am satisfied that the FCA has (or has not) behaved reasonably – but I am unable to give further details. This can be frustrating for complainants, but it is better that I am able to see the confidential material.
7. In your case, I am satisfied that the FCA has not ignored the information which you have provided, and gave it proper consideration. Unfortunately, I cannot say any more than that, and I recognise that that will be frustrating for you.

My decision

8. For the reasons above, I do not uphold your complaint. I understand that you are unhappy with my decision but from the evidence I have seen the FCA did not act unreasonably.
9. You are unhappy with how long the FCA took to review your complaint. I am afraid that yours is far from the only delayed FCA complaint case. I drew attention to the FCA's delays in my published annual report, laid before Parliament in July. I have been given details of the steps the FCA is taking – principally a significant increase in the number of investigators – to deal with the problem. The FCA offered you £100 ex gratia payment for the delay in dealing with your complaint, which I welcome. You asked the FCA to donate this to the British Red Cross.

Antony Townsend
Complaints Commissioner
10 September 2020