

30 September 2020

Final report by the Complaints Commissioner**Complaint number FCA00807***The complaint*

1. You complained to me on 29 July 2020 about the FCA's decision not to investigate your complaint.

What the complaint is about

2. In its letter to you, the FCA described your complaint as follows:

you are unhappy with [bank X] having sent you a text message in the earlier hours of the morning, requesting you to pay money into your account which had a zero balance. You raised a complaint with [bank X] who stated the message was sent in accordance with FCA regulations. You believe there is no such rule and state this is a systemic issue which the FCA should do more to combat.

By way of remedy you have requested for the rules to be changed and if not for the FCA to take this up with [bank X].

What the regulator decided

3. The FCA said that it would not investigate your complaint. This was because, under paragraph 3.5 of the Complaints Scheme, 'The regulators will not investigate a complaint under the Scheme which they reasonably consider amounts to no more than dissatisfaction with the regulators' general policies or with the exercise of, or failure to exercise, a discretion where no unreasonable, unprofessional or other misconduct is alleged.'
4. However, the FCA did give you a full explanation of what the FCA's rules required of banks, including your right to opt out of alerts, and said that the

information from your complaint had been passed on to the relevant team supervising the bank.

Why you are unhappy with the regulator's decision

5. In your complaint to me, you said:

The FCA appears to be dismissive of a complaint which is born from the fact that BCOBS is silent on contact times.

Clearly, a gap in regulation whereas the FCA feel that my complaint is simply dissatisfaction and nothing else.

My analysis

6. I should start by saying that I think that the FCA was right to say that it would not investigate your complaint under the Scheme, for the reasons it gave.

Additionally, complaints about the FCA's rules are explicitly excluded from the Scheme. The FCA has a process for making rules and amending them, which includes public consultation, but that is separate from this Complaints Scheme.

7. Although the Complaints Team did not investigate your complaint, it did go to some trouble to find out the position under the rules, and explain your option to opt out of alerts.

8. Finally, the letter to you said that 'The information [you] provided has been passed on to the relevant supervisory team, however we are unable to inform you of any outcome taken.' The FCA has supplied me with a record to show that the information was indeed passed on. The purpose of referring information of this kind is so that the supervisory team can see whether there is any evidence of a pattern of problems which can be tackled with the bank in question.

My decision

9. For the reasons which I have given, I uphold the FCA's decision not to investigate your complaint. Although I recognise that you would like the FCA to make rules governing the hours at which alerts are sent, that goes beyond the scope of this Scheme.

Antony Townsend

Complaints Commissioner
30 September 2020