

27 April 2021

Final report by the Complaints Commissioner

Complaint number FCA00882

The complaint

1. On 13 January 2021 you complained to me about the FCA's investigation of your complaint.

What the complaint is about

2. In its decision letter to you dated 12 January 2021 the FCA described your complaint as follows:

You believe there have been delays in your communication with the FCA. You reported the problems with Firm X to the FCA in January 2020 and have not had any updates. You are the leader of a group of 544 members who are victims of this crime. You have spoken with a Technical Specialist (TS) in the relevant area of the FCA who could not tell you anything because of section 348. You asked the TS a set of questions you believe you are allowed to ask under section 348 and the TS refused to answer them and stopped all communication with you. You do not think it is appropriate that the FCA ignored questions you believe you have asked in-line with section 348 and to not provide you with any material updates over a 3-month period.

What the regulator decided

3. The FCA did not uphold your complaint and explained it was unable to share any specific details with you regarding the intelligence you provided. The Complaints Investigator was satisfied that there were no material delays in your communication with the FCA or that the FCA could have provided you with any updates.

4. The FCA apologised for a proposed email response which was not sent to you in March 2020, which may have provided you with the FCA's responsibilities under s.348 in a clearer way.
5. The FCA Complaints Investigator identified areas where they thought there was potential for improvement within their processes and would be following up with the relevant areas to consider the implementation of this.
6. The FCA recognised the delay caused to reach a decision on your complaint, it apologised and offer you an ex-gratia payment of £125 for this.

Why you are unhappy with the regulator's decision

7. In your correspondence with me you make the following principal points:
 - a. You have provided concrete evidence that a firm the FCA regulates has committed serious fraud and the FCA are refusing to do anything at all;
 - b. You have personally lost £17,000 because of the fraud that took place;
 - c. You also state,

It is not right that an FCA regulated company is allowed to open up a branch in the Bahamas, run the whole operation out of their UK base, and defraud customers into thinking they are signing up with their FCA regulated branch, when in fact, they are signing up for this Bahamas branch. The Bahamas branch does not exist in reality, only on paper. They have no offices in the Bahamas, no presence, nothing at all. It's just a Ponzi scheme to steal money and it's being carried out by a firm that's regulated by the FCA.

My analysis

8. I've considered your complaint points and the FCA case file, including confidential information provided to me. Firstly, I empathise with your position and am sorry to hear that you personally lost money due to the fraudulent activity that took place.
9. The main crux of your complaint is the FCA's refusal to do anything at all with the evidence you provided to it. I have been provided with the FCA case file including confidential information for the purposes of my investigation.

10. I can see you contacted the FCA on 27 December 2019 making them aware of your situation and that you were not the only victim in this fraudulent activity that had taken place. Subsequently, the FCA responded to you in good timing on 30 December 2019 providing you with contact details for the UK-based firm and advised that the Bahamas based firm was not FCA regulated. They also provided you with contact details for the Bahamas regulator and information about 'Firm X' not being regulated. This was also followed up by the FCA's Unauthorised Business Department, which instantly issued an alert about Firm X being an unregulated entity. This alert is still live here on the FCA's warning list <https://www.fca.org.uk/news/warnings/gurvin-singh-dyal-gs3-trades-ltd-gs3-marketing-limited>
11. What followed from here was a request from an FCA Technical Specialist to you to understand more about your experience. As such, a conference call took place with you on 10 January 2020.
12. The Technical Specialist also informed you later in their correspondence with you that they would not be able to provide you with updates. I can also see the Complaints Investigator reiterated this to you in their decision letter and stated that they too could not share any specific details. The information the Technical Specialist and the Complaints Investigator gave you was correct.
13. The sharing of confidential information given to the FCA about firms is restricted by law under FSMA. 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.
14. Given my review of the FCA file that has been provided to me, I am able to conclude that I am satisfied that the FCA has acted appropriately. I am sorry to

not be able to disclose any more than that to you, but for the reasons outlined above I also need to maintain the confidentiality of certain kinds of information.

15. You raise the point that the firm who defrauded customers was regulated by the FCA. It is my understanding from reviewing the evidence and case file that the firm was not regulated by the FCA, it was a Bahamas based firm that was unregulated and unfortunately carried out the fraudulent activity.
16. I can only reiterate and hope my investigation reassures you that based on what I have seen I am content that the FCA are not refusing to do anything with the information you helpfully provided to them. I am also pleased to see that the FCA continue to actively encourage you to share information and evidence which may assist the exercise of their regulatory functions.

My decision

17. I realise you may be disappointed with my decision report, but for the reasons outlined above, I cannot uphold your complaint.

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Complaints Commissioner

27 April 2021