

15 March 2022

Final report by the Complaints Commissioner**Complaint number PRA000021***The complaint*

1. On 9 November 2021 you asked me to investigate a complaint about the PRA.

What the complaint is about

2. The PRA summarised your complaint as follows:

‘Your complaint relates to the communication with the Bank of England Whistleblowing team in November 2020 about concerns that you had about your employer as you “believed that the approach [your] Bank had readopted for Statistical Reporting was not ... compliant with the BOE's requirement.” You alleged that the responses of the Whistleblowing team “have been very confusing, contradictory and misleading” and that “their responses do not conform to the BOE’s Statistical Reporting Code of Practice or the Reporting Guide in which it states that misleading Reporting is a punishable offence under the Banking Act.” You have informed us that despite your communication with the Whistleblowing team, “the Reporting practices remained the same, not complying with the BoE’s requirements” which the “BOE...feel it is acceptable as it is not a Prudential Issue, making a mockery of the Statistical Code of Practice.” You also alleged that “to-date I have not received BOE’s consent to share our communication with the end users.”

What the regulator decided

3. The PRA said the decision made by the Whistleblowing and Supervision teams (in conjunction with the Data and Statistics Division) to refrain from raising your disclosure with your employer was correct and consistent, because of the limited prudential or regulatory impact. However, it partially upheld your

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complaint due to the initial communication may have given the impression that you had a choice in whether the disclosure that you made to the Whistleblowing team was raised with your employer. The PRA also answered your query about disclosure.

Why you are unhappy with the regulator's decision

4. You have asked me to review the PRA decision. In particular, you say:
 - a. The Complaints team have concluded that the Whistleblowing Team was correct in not approaching my employer as the Prudential or Regulatory impact was low but under the heading "Materiality of the disclosure they state if claim of £4bn was correct, then my disclosure becomes slightly more material. In which case should my claim not have been verified? (Element One)
 - b. An incident has been mentioned. - I am not sure why this incident has been referred to as this is precisely the result of what the BOE have confirmed as being incorrect treatment. The same issue had been raised with the Monetary Authority of Country X, who were more proactive and told us to amend the revised treatment by referring us to the Rule Book. (Element Two)

My analysis

Element One

5. You made a disclosure to the Whistleblowing team at the Bank of England in respect of a statistical return that your employer, Firm, X, makes on a regular basis to the Bank of England. You stated that "[you] believe that the way Firm X have adopted the new procedure of classification of, Country of Residency, Institutional Sector and the Industry Sector does not correspond to the BOE guidelines".
6. The Whistleblowing Team responded to you that "Supervision has reviewed the case and agrees that on balance, your interpretation is correct. However, there are no breaches of any fundamental rules by the firm. The misinterpretation of classifying Country of Residence, Institutional Sector and Industry Sector does not have a substantial impact on the regulatory data that we receive from the

firm. If there are significant issues that arise from this classification (which we do not expect there to be), we will use that to reach out to the firm. ...Supervision will continue to monitor and look into the issue, but for now there are no immediate actions”.

7. You responded to the Whistleblowing team as follows: ‘My understanding is misinterpretation of definitions leads to misleading information, namely, overseas companies being classified as UK resident entities. In the case of Firm X, it is currently reporting over GBP 4billion incorrectly, Also, the income / expenses reports are stated incorrectly. The Balance of Payment return is missing about {x}% of the income being reported. This appears to amount to Firm X knowingly supplying misleading information, and therefore does appear fundamental and substantial’.
8. The PRA decision letter addressed your point as follows: ‘the Data and Statistics Division noted that: “the balances ... are immaterial in a published aggregate sense. They noted that “as we do not get a breakdown of Firm X’s outstanding loan book for any given period. I am therefore unable to offer an opinion on the validity of their £4bn claim, but if that held true then the numbers do, obviously, become slightly more material”.
9. The PRA’s overall view however was that it would not approach Firm X to seek further explanations on any of the points you raise as the materiality of your disclosures are low from a statistical perspective and limited prudential impact.
10. I raised a query with the PRA which said to me that ‘the aspect of materiality was raised with the Data and Statistics Division, who are responsible for determining whether matters regarding statistical reporting are referred back to reporters. The Data and Statistics Division confirm that they have not looked into the veracity of the allegation that £4bn may be misrepresented because even if it were true, it would still not be a material variance in the overall aggregated data’.

Element Two

11. The incident you refer to relates to classification categories in the statistical returns of Firm X mentioned above. The PRA has acknowledged your interpretation may be correct for some of the classifications although considers

others to be in a 'grey area'. The PRA has told you that 'It is also clear from the examples that you have presented that the classifications were fully considered by other colleagues from your firm and that any alleged misclassification stemmed from a difference of opinion, rather than any intentional misreporting'.

12. The PRA as also said it will 'monitor regulatory return submitted by Firm X and assess what impact this matter may have the firm's submission if there is any'.

My decision

13. You have expressed concerns about the statistical and regulatory reporting returns that Firm X is making to the PRA. The PRA has reviewed your concerns and will not take further action at present because it considers the matters you highlight to be of limited prudential and regulatory impact.
14. I appreciate you are concerned with this outcome. However, I am satisfied that the PRA gave the information you provided appropriate consideration and its decision is within a range of decisions a regulator can reasonably make.
15. You have expressed the view that 'is it not the BOE's duty to eliminate all the known errors', and 'confirm if my interpretations were correct and if so, advise my Bank the correct procedure'.
16. The PRA can make decisions not to take action in cases where it considers the matters are of limited regulatory or prudential impact. However, in this case, I have noted to the PRA it may wish to consider the proportionality of corresponding with you over a period of seven months in order to explain why it will not take regulatory action even though some of the classifications were wrong and there was an uninvestigated alleged £4 billion variation in reporting, when that same energy could have been better used in sending a letter to the Bank asking it to reclassify and explain the variance.
17. The PRA complaints team has said 'We have fed back the findings from the investigations to the relevant areas, along with the Complaints Commissioner's note on the proportionality of the approach taken. We are pleased to have initiated this feedback loop for the benefit of our procedures and have asked the teams to reflect on any wider lessons to be learnt from the complaint'.

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Complaints Commissioner

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