

The FCA's response to the Complaints Commissioner's Report

FCA00503

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We have considered the Final Report of the Complaints Commissioner on complaint FCA00503.

The Commissioner has concluded that the actions of the FSA (in failing to update the Register in 2006) contributed to the complainant's loss, and therefore, the Commissioner has recommended that the FCA, as the FSA's successor, should consider making an ex gratia payment to cover 50% of the losses incurred by the complainant.

The complainant has fallen victim to the dishonest actions of third parties and the FCA is sorry that the complainant has suffered a loss. Nevertheless, the FCA is unable to accept the Commissioner's recommendation. The complainant received sensible guidance from the FCA before investing, which was not followed. As the Commissioner notes, had the guidance been followed, the complainant would not have lost their investment in the way that they did. In the circumstances, we do not think an ex gratia compensatory payment is appropriate.

While the complainant in this case did not say that they relied on the Register, paragraph 24 of the Final Report sets out the FCA's general position on whether it should pay compensation to consumers for mistakes on the Register. For the reasons set out in that paragraph, and noting that the Commissioner disagrees with us, we do not think that we should make such payments.

The Commissioner has referred to a previous complaint (FCA00459), which he says has "similarities" to this one. We do not share this view. In FCA00459, the complainant had checked the Register before proceeding to deal with the firm in question. Whereas, in this case, there is no evidence to suggest the complainant had checked the Register.

In accordance with the Commissioner’s second Recommendation – that the FCA undertakes a review of its processes regarding the registration entries on the Register for passported firms – we have begun undertaking an extensive review of our Register, which seeks to bring greater intelligibility and accuracy to records displayed in a new format.

7 May 2019