

**The FCA's response to the
Complaints Commissioner's Report 202400410
Published on 6 March 2025**

We have carefully considered the Final Report from the Complaints Commissioner (the Commissioner). We have sympathy for the difficult situation the complainant has experienced relating to investments they made with a European Economic Area (EEA) based firm which passported into the UK.

Elements One and Two

We will take forward Element One of the complaint and will investigate and respond to that element.

We note that the Commissioner has agreed with our application of the time bar in relation to Element Two of the complaint, so we will not be investigating that element of the complaint.

Element Three

We do not agree with the Commissioner's conclusions in relation to Element Three of the complaint. We consider this element of the complaint was raised outside of the 12-month time limit set out in the Complaints Scheme.

Paragraph 2.4 of the [Complaints Scheme](#) says we must be notified of a complaint within 12 months of the date the complainant first became aware of the issues they are complaining about. We will only consider a

complaint made later than this if we consider there is a good reason for the delay.

After engagement with the home state (EEA) regulator, the FCA issued a First Supervisory Notice (Notice) against the firm instructing them to repay UK customers. This complaint alleges the FCA did not enforce the terms of that Notice once the complainant contacted us in February 2021 to confirm they had not received full repayment from the firm.

As the complainant contacted the FCA about this event in 2021, we consider that it was apparent to the complainant around that time that the FCA had not taken the action the complainant hoped for – yet a complaint was not made until more than three years later, in May 2024.

Although the complainant sought assistance from a number of organisations, including in the firm's home country, in our view, this does not constitute a good reason for a delay of over three years in making the complaint to the FCA. As such, we do not accept the Commissioner's recommendation that we should investigate this element of the complaint.

We also note the Complaints Scheme does not contain a requirement for us to investigate complaints that have been raised out of time in the public interest. We also therefore do not accept the Commissioner's recommendation that we should investigate Element Three of the complaint on public interest grounds.

The FCA took action to mitigate harm caused by the firm and issued the Notice instructing them to repay UK customers. Within two days of the Notice being issued, the EEA regulator confirmed that the firm's 'passport' to carry out services in the UK was suspended. As a result, the firm was no longer authorised in the UK. Under the previous EEA passporting regime, where a firm was regulated in the EEA and passported their

services into the UK, our powers differed from those in relation to UK firms who are directly authorised and regulated by us.

For the reasons described above, we do not accept the Commissioner's recommendation to consider Element Three of the complaint.