

20th December 2007

Dear Complainant

Thank you for your email of 15th November 2007, which details the elements of your complaint against the FSA. This letter sets out my final decision on the complaints you have raised.

At this stage I think it would be worth explaining my role and powers. Under the Complaints Scheme (Complaints against the FSA-known as COAF) my role is as an independent reviewer of the FSA's handling of complaints. I have no power to enforce any decision or action upon the FSA. My power is limited to setting out my position on your complaint based on its merits and then if I deem it necessary I can make recommendations to the FSA. Such recommendations are not binding on the FSA and the FSA are at liberty not to accept them. Full details of Complaint Scheme can be found on the internet at the following website; <http://fsahandbook.info/FSA/html/handbook/COAF>

You are currently a member of the supervisory committee of a Credit Union ('the Union'). You have indicated that you have found what you consider to be serious breaches of the rules governing the Union by the credit committee. You asked for the FSA to attend a meeting and an FSA representative duly attended. You have said that;

"I did not feel that the main issues were not (sic) addressed and no clear instruction was given to the perpetrators of the breaches".

You have gone on to state that;

"The Supervisory committee members are concerned that there is potential for illegal activity although there is no question of that at this time. We need to know why the FSA does not feel it should contact all board members to point out that all dubious activities should cease forthwith and who is the regulator that should impose the rules if the supervisory committee is ignored."

The FSA have responded to your complaint in its letter of the 17th October 2007. In this letter it states that your complaint is not upheld. It goes on to clarify its role in the matter under the Industrial and Provident Societies Act and not under the Financial Services and Markets Act as it appears you considered it to be. Later, the FSA state;

"I note that during the meeting, the FSA confirmed that unless there was clear evidence that members of the Union had been disadvantaged by the actions taken in breach of the Union's own rules, it was not inclined to take the matter forward."

My position

It is clear from your complaint that the FSA's options with regard to direct action are limited to either varying the permissions of the Union or put in place a skilled person report. Both of which would appear to be somewhat draconian in light of the fact that, as yet, no members of the Union appear to have been significantly disadvantaged. It is also clear that the Union

while regulated under the Financial Services and Markets Act is not in the manner that you thought it was and consequently the FSA's options are limited to those as its representative set out at the meeting that he attended with you. It also appears, from the contemporaneous notes of the meeting, that the FSA representative made it clear that it was for the Union to sort out the problems with its internal workings (arising from the personal issues between persons involved) and that if it did not then the FSA may take the actions mentioned.

Ultimately those holding roles of responsibility at the Union have to address the issues it faces and ensure good governance. If those persons choose not to do so then the FSA will take action which could lead to damaging consequences for both the Union and those individuals found to be at fault. It appears from your complaint that you expect the FSA or some other regulator to sort out the running of the Union without significant expense to the Union. The FSA has to use its resources efficiently and economically in its role as regulator and consequently the options are as explained to you all in the meeting. I consider this to be a rational and sensible approach to the matter.

I appreciate from your comments that you feel somewhat exposed in the situation you are in and wish to avoid criticism from the FSA in the event of it taking action against the Union. However this is hardly the fault of the FSA. Unfortunately when personal issues become embroiled in the governance of any body it is hard for those issues to be set aside without a change in the role holders.

Conclusion

For the above reasons I do not uphold your complaint against the FSA. From the evidence I have reviewed its position on the matter is reasonable.

Yours sincerely

Sir Anthony Holland
Complaints Commissioner