

Mr X
Company Y

14 July 2006

Dear Mr X

**Complaint against the Financial Services Authority (FSA)
Reference Number: 653 Company Y**

I have now completed my investigation into your complaint against the Financial Services Authority (FSA) and this letter sets out my final decision on the matter that you have raised.

Complaint

My understanding of your complaint is that you believe the FSA should recalculate the invoice for the fees payable for the period 1 April 2005 to 31 March 2006 because you had requested authorisation for five mortgage advisers unnecessarily. Please let me know if this is not correct.

Background

On 11 July 2005 you received an invoice for regulatory fees for the period 1 April 2005 to 31 March 2006. This invoice covered registration for ten advisers. You considered the amount to be excessive and upon investigation you found that it was not necessary for five mortgage advisers to be registered. You have stated that you did not expect the FSA to refund fees for the previous four or five years during which your company had been incorrectly paying for the five advisers, but you asked for a recalculation for the current invoice only. The FSA has refused to recalculate the invoice and has not upheld your complaint.

Findings

The calculation in respect of the 2005/6 fees was set on 31 December 2004 based on the information held by the FSA that had been supplied by your firm. There is a deadline of 31 March each year to notify the FSA of any changes of individuals to be authorised and this is clearly explained in the FSA handbook. Fees are then set according to the data and invoices generated, the main invoicing period being between June and September. All firms that held permissions at 1 April 2005, therefore, were required to pay fees for the full year (SUP 20.2.3G).

SUP 20.4.11G states *“The FSA will not refund periodic fees if, after the start of the period to which they relate, a firm cancels its permissions, or reduces its permissions so that it then falls out of the fee-block previously applied to it.”*

However, the FSA is able to consider, in an 'exceptional' case, whether or not it should agree to offer a firm a credit note. Your case was referred to the Credit Committee and it was decided that your case was not exceptional and therefore a credit note would not be issued.

The FSA deals with a number of complaints where firms have missed the deadline and then request that they are dealt with as 'exceptional'. You will understand I am sure, that there is a need for consistency and to be fair to those firms that have responded within the mandatory period. Furthermore, it clearly is the responsibility of the firm to ensure that it complies with the rules. As part of becoming authorised you agreed to be bound by those rules and have an obligation to be aware of the rules as part of your management function. Further the onus is on firms to decide whether they need their advisers to be authorised. This is not the responsibility of the FSA.

Conclusion

The rules regarding notification in respect of authorised persons are clear and straightforward to find in the FSA Handbook. I can understand your disappointment in finding that you were paying for authorisation for advisers unnecessarily but that is not the responsibility of the FSA. Neither can I find any evidence that the FSA has not followed the correct procedures in dealing with your complaint. Under the circumstances I regret that I am not able to uphold your complaint.

Yours sincerely

Sir Anthony Holland
Complaints Commissioner