

20th February 2007

Dear Complainant

Thank you for your letter of 15th January 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 is at liberty not to accept them. Full details of the Complaint Scheme can be found on the internet at the following website; <http://fsahandbook.info/FSA/html/handbook/COAF>

The Complaint

Your complaint is in essence based on the sale of your general insurance partnership (the Partnership) to a company (the Company). You have noted that had your Partnership been a company the FSA registration would have simply transferred across. As it was a Partnership the Company had to get a new FSA registration as the legal entity had changed. You were unable to get a refund for that part of the year that your Partnership was not trading. You feel that this does not treat customers fairly.

The FSA has generously explained at length the situation to you and why you were not entitled to a refund. There are some issues which need to be highlighted before I reach my conclusion.

- Ultimately the firm agreed to the rules and guidance laid down in the FSA handbook in signing its original application for authorisation. The onus is subsequently on the firm to know sufficiently the FSA rules and guidance, and in this case specifically with regard to fees. This is applied consistently to all FSA regulated firms.
- The FSA explains in its decision letter that fees are not refunded in your situation as explained clearly in the FSA handbook (FEES 4.2.9).
- Ultimately whether the Company pays a new set of fees or gains relief from such fees under the rules explained by the FSA in its decision letter, it does not impact upon your situation. (Unless you agreed to such a clause in the sale contract and if that is the case you hold responsibility for this due to your consent to such a clause).
- At the time of paying the Fee for the Partnership you were obliged to do so by the rules in the FSA handbook. These rules were in place for a significant period of time prior to the sale of the Partnership. If you decided not to take the cost of authorisation for the period in question, that is the period paid for after the sale of the

Partnership, into account whilst negotiating the sale of your Partnership then that is your decision and it is not the fault of the FSA.

Conclusion

In your complaint to me you have not, evidentially, demonstrated any wrongdoing on the part of the FSA. In fact you have stated that the FSA has dismissed your case based upon the rules. The same rules you agreed to be bound by when you first became authorised. It appears that you feel that the rules are wrong. Yet I see no evidence of your having challenged this rule prior to it having an effect on your particular circumstances.

You have stated that the stance of the FSA in this case, based upon the rules, does not treat customers fairly. I disagree. The FSA has set out clear rules by which all authorised firms have agreed to be bound by. These rules have been widely available to you and the public since their inception. These rules have been followed by the FSA for a number of years and have affected a large number of firms in that time. If firms choose not to know the rules by which they are bound, then that is not the fault of the FSA.

Your complaint is not upheld.

Yours sincerely

Sir Anthony Holland
Complaints Commissioner