8 November 2019

To ask the Chancellor of the Exchequer, how many formal complaints from consumers the Financial Ombudsman Service have (a) received and (b) upheld in relation to the (a) sale and (b) distribution of Exchange Traded Notes that reference cryptoassets. HC 489

Dear Mr Davies

I am writing in response to your recent parliamentary question. As the Financial Ombudsman Service is operationally independent of government, HM Treasury has passed on your question to us to provide a response. We are not aware of having received any complaints specifically about Exchange Traded Notes that reference cryptoassets but we have received complaints about investments that reference cryptoassets more generally. This area can be complex in terms of our jurisdiction so I hope you don’t mind if I provide some further background.

We were set up by Parliament under the Financial Services and Markets Act 2000 to resolve individual complaints between financial businesses and their customers – fairly, reasonably and with minimum formality. If a business and a customer can’t resolve a problem directly, we are available to step in and independently assess the customer’s complaint. If we find that someone has been treated unfairly, we’ll use our powers to make sure things are put right. This could mean telling the business to apologise, to take a specific action to resolve the complaint, or to pay compensation. Our compulsory jurisdiction, under which we look at most complaints, generally covers complaints about businesses that are regulated by the Financial Conduct Authority.

The FCA defines cryptoassets as secured digital representations of value or contractual rights that can be transferred, stored or traded electronically. Cryptoassets are unregulated but there are still some circumstances in which we may be able to consider complaints which involve them. For example, if a consumer bought a derivative product, such as a contract for difference, which was linked to the price of a cryptoasset. When we look at these complaints we’d consider whether advice was given, and what information was provided about the potential high risk involved with investing in cryptoassets – in line with how we approach investment complaints more generally. We also see complaints about unauthorised transactions or chargebacks involving cryptoassets, for instance if consumers complain that
they have been defrauded by a trading platform when purchasing cryptoassets. And we’ve seen complaints involving Section 75 of the Consumer Credit Act – for example when consumers have requested a refund on the credit card that they used to purchase a cryptoasset because they believe there has been a breach of contract or misrepresentation by the trader.

I hope this helps to answer your question. A copy of this letter has been copied to HM Treasury and will be laid in the library of the House of Commons.

Yours sincerely

Caroline Wayman

chief ombudsman and chief executive