

The complaint

Mr S has complained after Killik & Co LLP (Killik) wouldn't convert the American Depositary Receipts (ADRs) he held through them.

What happened

Mr S says he holds several Russian ADRs through Killik, which were suspended from the London Stock Exchange (LSE) in March 2022.

Mr S says shortly after this he contacted Killik. He said he had found out about US banks offering conversion programmes for ADRs and global depository receipts (GDRs) into shares.

In May 2022, Killik responded to Mr S to say they would not be offering such a programme. They said their custodian could not hold Russian shares and that their legal counsel had suggested that buying, selling or transferring shares might violate the sanctions in place. Mr S complained to Killik but when they wouldn't alter their position, he brought his complaint to our service for an independent review.

Our investigator looked into it. She acknowledged that it's not the responsibility of Killik that the UK government had suspended trading in these Russian stocks. She said that the terms of Mr S' account didn't provide for conversion, and she felt Killik were acting fairly in the circumstances in not doing so.

Mr S didn't agree. He raised several points in response. Amongst these, he said that many other western investors had taken advantage of conversion programmes for such ADRs. He said doing so, had shown Killik's concern of illegality in conversion was unfounded. He also reiterated that with the current suspension, his ADR value was showing a loss of over £50,000.

As no agreement was reached, the case has been passed to me for a decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I have come to the same conclusion as the investigator. I'll explain why.

Mr S is clearly unhappy that Killik won't convert these ADRs into shares for him, as he hopes they can be certificated and then traded. Killik have provided us with a copy of the relevant terms and conditions. I haven't seen anything that suggests Killik allows customers to convert and certificate ADRs using their service.

I therefore have to consider if it's fair and reasonable of Killik to refuse to assist with the conversion. Killik themselves wouldn't be able to hold the underlying shares in these

companies post-conversion, as they don't access the Moscow Exchange. So, conversion would have necessitated Mr S sourcing an account that could hold the shares – which would likely have needed to be in Russia, and I understand that currently that is a difficult thing for an individual to do. Even if he could do that, I don't think Killik would be treating him unfairly by refusing to be involved in the conversion process. This is because following the unprecedented sanctions that went into place following Russia's invasion of Ukraine, there was a lot of uncertainty in the UK financial sector about whether (or how) assisting in the conversion process would breach any of those laws. Many firms have chosen to take a risk averse approach towards potentially breaching them, given the uncertainty, and have refused to assist. The level of risk a firm is willing to take (which has an influence on the products and services they offer their customers) is something I'm satisfied is at Killik's discretion.

I think it's also important to note, that even if they were able to and had agreed to, it's unlikely that Mr S as a UK based customer would be able to sell the shares. I say this because they would need to be traded through a Russian broker, but Russia currently bans anyone from the UK from selling Russian shares. Meaning I think it's very unlikely Mr S has suffered any financial loss from the refusal to convert the ADRs. I know that Mr S has mentioned other businesses that may have provided for conversions. However, that is likely to involve different circumstances and I am only considering the fairness of Killik's decision.

I appreciate that Killik took quite a long period of time to confirm to Mr S that they would be offering a conversion programme. I know this will have been a period of significant concern and worry for Mr S. However, considering the difficult decision, the legal advice needed, the concern Killik would have had for its customers and that they were trying to treat customers fairly, I don't think this time frame was unreasonable. For the same reasons as above, even if the time frame was unreasonable, it's not caused any loss, as Mr S wouldn't have been able to sell his ADRs at any earlier point.

In summary, I don't think Killik are acting unfairly by refusing to convert the ADRs, a service not provided for within the terms and conditions.

My final decision

My final decision, for the reasons stated above, is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 January 2024.

Yoni Smith
Ombudsman