

The complaint

Mr C complains that Financial Administration Services Limited (referred to as “FASL”, or “the business”), failed to inform him about “diversification” before he incurred losses on his investment ISA.

To put things right, he’d like the business to refund the financial losses incurred.

What happened

The investment ISA, originally with a different business, was transferred to FASL in September 2021. Mr C says that since then the investment has performed poorly, and he’s lost approximately 17% of its original value.

He says that after 14 months, FASL sent him a letter, asking if the investment was diverse enough – as it only held one or two funds. It went on to explain the benefits of “diversification”.

Although Mr C accepts that FASL doesn’t offer advice, he feels that had he been made aware (sooner) that his investment wasn’t diverse enough, he could’ve taken action to prevent the loss.

The business didn’t uphold the complaint. In summary, it said:

- It was for its customers, following the move from the previous business, to familiarize themselves with its offerings. It offered an execution only service and not advice.
- The marketing material was only there to raise awareness.
- The investment proposition didn’t offer advice. It was for the investors to do their own research.
- The investment performance is linked to the financial markets and not something that the business can predict or control, therefore it’s not responsible for any financial losses claimed.

One of our investigators considered the complaint but didn’t think it should be upheld. In summary, he said:

- FASL provided an execution only service, therefore it wasn’t obliged to provide any advice.
- It was Mr C’s responsibility to familiarise himself with the new platform and its terms and conditions.
- In a response dated August 2022, the business made clear that investments can be affected by market volatility. Furthermore, in this instance, whilst Mr C’s investment was held on a FASL platform, it was still managed by the previous business.
- Mr C was offered an adviser linked service, but to date hasn’t taken up the offer.
- It’s fair to say that the investment performance was down to market conditions and nothing to do with the business. It’s not something that the business could predict or control and therefore not something it should be held responsible for.

- On page eight of the terms and conditions, under the heading *“What risks are there when I invest my money?”* it states:
 - *“Their value: The value of any investment you make – and any income you receive from it – can go down as well as up. This means you could get back less than the amount you invest”.*
- It also states:
 - *“You should regularly review your account to check it is meeting your needs both now and for the future”.*
- The onus is on the consumer (investor) to review the investment and make sure it's right for them. In other words, the decision about the funds and how the investment should operate was for Mr C.

Mr C disagreed with the investigator's view and asked for an ombudsman's decision. In summary, he made the following observations:

- The business correctly alerted him about the risk of lack of diversification and only did so under its obligations under the Financial Conduct Authority (FCA) “Customer Duty” provisions – namely duties at 1.9, 5.20 and 5.24.
- However, it failed to alert him when this was reasonably foreseeable - when it took over.
- The business's actions caused him foreseeable harm through its late alert.
- It failed to engage with him to enable him to make effective, timely and properly informed decisions, thus preventing him from doing so himself.

As no agreement has been reached, the matter has been passed to me for review.

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 agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Mr C says, I can't safely say that the business behaved unreasonably – by not sending him a letter notifying him about diversification sooner – such that this complaint should be upheld.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr C's strength of feeling about this matter. He has provided submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by him and the business, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

I don't uphold this complaint, in brief, for the following reasons:

- I note Mr C accepts that FASL doesn't offer advice, however, still feels that it should've notified him about the diversification issue (sooner) – but in the circumstances, and on balance, I don't agree that it should have or that it has done anything wrong by not doing so.
- FASL provided an execution only service, which meant it didn't offer advice but only acted upon instructions provided by investors. It also isn't responsible for any management, fund strategy or asset allocation, so Mr C would need to discuss this with the previous business which was managing the fund(s).
- It was for Mr C to decide whether (or not) a particular course of action was suitable for him as the business wasn't obliged to provide any advice.
- On balance, I agree that it was a matter for him how he dealt with his investment(s) and was up to him to familiarise himself with the new platform, and its terms and conditions.
- Because the business doesn't offer advice, it wasn't under an obligation to notify Mr C of any issue with diversification, therefore it hasn't done anything wrong by not doing so sooner.
- Despite what Mr C says, even if it had informed him about diversification 14 months ago, I still can't safely say that he wouldn't have lost money. I note the business says that diversification can, but not always will, help to smooth out some of the turbulence – but it's no guarantee that the value of the investment won't still go down.
- On balance, I'm satisfied that on this occasion the business notified Mr C of the diversification issue and it did so for marketing reasons and to raise awareness about what's on offer. That's why the information provided in relation to the issue doesn't count as 'advice'. I note the letter to Mr C was a standard letter that probably went out to all its customers in a similar position, and not one that was specifically drafted for him. I note the third and final bullet point – on page one of two – made clear that if he was looking for a personal recommendation, he might like to speak to one of its personal advisers which he could do so by calling the number or visiting its website.
- I'm satisfied that it was for Mr C to do his own research (get financial advice if necessary) before deciding what to do.
- In this instance, and on balance, I can't blame the business for any financial losses Mr C might have incurred, because it isn't responsible for them.
- I've seen nothing to suggest that the investment wasn't moved to FASL correctly. I note the transfer was in-specie, therefore Mr C's money remained invested throughout this process.
- I appreciate what Mr C says about the FCA "Customer Duty" principles, but that came into force on 31 July 2023, and the actions he refers to pre-date this scenario and therefore don't apply – because the provisions don't apply retrospectively. In any event, even if they did, on balance I can't say that the business did anything wrong because this was an execution only service therefore it wasn't obliged to offer any kind of advice in terms of the investment and what should happen to it.

I appreciate that Mr C will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm not persuaded to require the business to do anything.

In other words, on the face of the available evidence, and on balance, I'm unable to uphold this complaint and give him what he wants.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 17 October 2023.

Dara Islam
Ombudsman