

The complaint

Mr H complains about TransferWise Ltd's decision to refer his funds to the Office of Foreign Assets Control (OFAC).

What happened

Mr H opened an account with TransferWise in September 2019. Mr H is a US Citizen whom currently resides in another country and regularly visits his mother who lives in Iran.

Mr H's mother has some health issues and therefore decided to purchase a property in the country where Mr H currently resides. Mr H's mother agreed to use some of her savings towards the purchase of the property, and Mr H agreed to pay the rest.

In November 2019, Mr H transferred around €13,000 in three separate transactions from a third-party bank to his account with TransferWise. Mr H's intention was then to transfer the money to an account in the country where Mr H currently resides, and where he and his mother planned to purchase the property.

The day after, TransferWise got in touch with Mr H and asked him for some information relating to the payments made. This was mainly due to the word 'Iran' being included in the reference. Mr H responded on the same day to explain what the payments were for.

A couple of days later, TransferWise explained that they were carrying out a review on the money and Mr H's account. TransferWise explained to Mr H that the review was linked to Mr H's US nationality and the involvement of transferring money from a country subject to sanctions – Iran.

Mr H wasn't happy with TransferWise's actions – so he made a complaint. TransferWise responded and included notification of deactivation for Mr H's TransferWise account. They deactivated it on 14 November 2019.

TransferWise issued their final response to Mr H's complaint on 25 November 2019. The letter explained that due to Mr H's nationality, TransferWise had referred the transfers to OFAC. And Mr H would need to apply for an OFAC licence to retrieve his money.

Mr H was unhappy. He doesn't believe TransferWise are in OFAC's jurisdiction and therefore doesn't agree his money should have been referred to them. He referred his complaint to our service and complained specifically about TransferWise's actions when reviewing and blocking his account and referring the transfers to OFAC. Mr H also said he felt TransferWise were discriminating against him.

The investigator who considered Mr H's complaint didn't uphold it. In summary she was satisfied that TransferWise were entitled to refer the transfers to OFAC and didn't think they'd done anything wrong. She further explained that TransferWise were entitled to block Mr H's account under the Terms and Conditions of the account – and said that TransferWise weren't obliged to explain their reasons for reviewing an account at any time. The investigator also concluded that she hadn't seen any evidence of discrimination and

signposted Mr H to the United Nations Human Rights Office of the High Commissioner's website as he felt his rights had been violated.

Mr H didn't agree and included a number of submissions as a response to the investigator's view. Mr H asked for an ombudsman to review things – so it has been passed to me.

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.

I've noted that Mr H has made a number of quite detailed submissions and also sought answers to his questions about the nature of TransferWise's investigations and jurisdiction. Like the investigator, I've considered all of these, but I don't believe it's necessary to address each and every point that Mr H has made in order to meet my statutory duty to determine his complaint. I'm required to do that with minimum formality, and so I'll address the issues that I consider to be the most important. I do stress however that I've considered everything that Mr H and TransferWise have said before reaching my decision.

I would add too that our rules allow us to receive evidence in confidence. We may treat evidence from banks as confidential for a number of reasons – for example, if it contains information about other customers, security information or commercially sensitive information. Some of the information TransferWise has provided is information that we considered should be kept confidential.

Were TransferWise entitled to review, block and deactivate Mr H's account?

TransferWise are strictly regulated and must take certain actions in order to meet their legal and regulatory obligations. Based on what I've seen, I'm satisfied TransferWise were acting in line with these obligations when reviewing, blocking and subsequently deactivating, Mr H's account.

TransferWise are required to regularly review the relationships they hold with their customers and it's often appropriate for certain transactions to be reviewed. In Mr H's case, a payment he made was flagged due to the links with a sanctioned country. And therefore, it would have been necessary for TransferWise to review the transactions linked to this sanction further. So, I'm pleased to see they decided to carry out a review on Mr H's account.

The investigator helpfully referred Mr H to the relevant Terms and Conditions TransferWise relied on when blocking the account during their review.

The Terms state;

25.2 We may suspend or close your TransferWise Account without notice in certain circumstances. We may at any time suspend or close your TransferWise Account and/or end this Agreement without notice if:

(a) you breach any provision of this Agreement or documents referred to in this Agreement;

(b) we are requested or directed to do so by any competent court of law, government authority, public agency, or law enforcement agency;

*(c) we have reason to believe you are in breach of any applicable law or regulation;
or*

(d) we have reason to believe you are involved in any fraudulent activity, money laundering, terrorism financing or other criminal or illegal activity.

I appreciate Mr H doesn't agree that the Terms allow TransferWise to take the action they did. But I disagree. I think TransferWise were entitled to block Mr H's account due to the links with a sanctioned country based on the Term's above. And therefore, I'm not going to ask them to do anything to put things right.

Mr H hasn't complained specifically about TransferWise deactivating his account – just their actions surrounding it and what led to the deactivation. However, I feel it important to comment that TransferWise can choose who they do business with. The same way if Mr H decided to move his account elsewhere, he wouldn't need to tell TransferWise the reasons why. Therefore, I'm satisfied with TransferWise's actions when deactivating Mr H's account.

The referral to OFAC

Mr H has made large reference to the reasons why he doesn't believe TransferWise are entitled to refer the transactions in question to OFAC. In essence, Mr H doesn't believe TransferWise are in OFAC's jurisdiction. He believes the European Union (EU) sanctions hold no relevance to the US sanctions – and therefore TransferWise have acted inappropriately as they're based in the EU rather than the US. I recognise how strongly Mr H feels about this – but I can't fairly agree with him.

I've considered OFAC's jurisdiction and while I recognise that TransferWise and the third-party bank where the money was initially transferred from are in the EU, that doesn't automatically remove them from any sanctions which are relevant to OFAC. Mr H is a US Citizen and therefore, regardless of where Mr H resides, or what banks he uses to make transfers, he is subject to US Sanctions based on his nationality.

Taking this into account, alongside the full circumstances of the complaint, I find that TransferWise have been reasonable and appropriate in their actions. I say this due to the conditions of the account, the constraints that are in place by OFAC and the obligations of TransferWise as a regulated business.

Discrimination

Mr H has referred to discrimination – but I haven't seen any evidence that TransferWise have discriminated against him. I note the actions of TransferWise are due to Mr H's nationality, so I've thought very carefully about this point. However, I'm satisfied that the actions of TransferWise were to comply with their regulatory obligations when handling money transfers. So, while I recognise Mr H is being held accountable due to his nationality, I don't consider it to be for reasons of a discriminatory nature. And therefore, I can't agree with him on this point.

Retrieving the money – OFAC licence

TransferWise making a report to OFAC would mean that Mr H's money isn't accessible without applying for a licence with OFAC directly. TransferWise, or anybody else, wouldn't be required to do this on Mr H's behalf. Mr H has to apply for the licence directly.

I've considered Mr H's comments regarding the difficulty he faced in trying to obtain a licence. Mr H has explained that he needs to obtain a licence from the EU before he can

contact OFAC. Mr H has applied for a particular licence which he believes will take a couple of years to come through. There are certain hurdles to get over when a US citizen, like Mr H, is trying to send or receive funds to certain countries and I don't doubt this is a difficult time for him. Mr H has explained that the money being held is for the purchase of a property so his mother can be closer to him, and to be able to help with his mother's medical situation. I'm really sorry I can't help Mr H in the way he'd like me to – especially due to the circumstances surrounding why Mr H needs the money being held. But for me to hold TransferWise responsible, I'd need to be satisfied they've acted inappropriately. And for the reasons I've explained, I don't think they have.

Overall

In summary, Mr H is a US citizen and made transfers which involve a country subject to sanctions. As Mr H is a US citizen, TransferWise were correct in referring the transfers to OFAC for review. As the referral has been made, Mr H is required to apply for an OFAC licence to retrieve his funds. I recognise the added pressure and inconvenience this puts on Mr H, but it's not the fault of TransferWise. And because of that, I'm not going to ask them to do anything.

My final decision

For the reasons I've explained above, I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 June 2021.

Hayley West
Ombudsman