DRN-2896364

The complaint

Mr and Mrs N complain about the suitability of investment advice they received from London and Capital Asset Management Limited (L&C). In summary, they're unhappy with the level of risk they were advised to take which caused unnecessary losses.

What happened

Mr and Mrs N received investment advice from L&C in 2018. At the time it was recorded that their attitude to risk (ATR) was medium-high and they wanted to invest for the next 10 years. L&C recommended that they invest £200,000 in a discretionary managed portfolio.

Mr and Mrs N subsequently moved their ISAs and Mr N's SIPP to L&C. In October 2019 they had a review and L&C explained that they were planning to move back to the USA and buy a property there. They've said that the adviser told them that their existing investments were safe, and no changes were required.

Unfortunately, the investments fell in value in the early part of 2020 due to the volatility caused by the Covid-19 pandemic. Mr and Mrs N surrendered their investments in April 2020 and complained to L&C about the management of their portfolio. They said, in summary:

- L&C should have moved their money into safer investments when they were made aware of the plan to move back to the USA and purchase a house.
- They believed they had incurred a loss of around $1,625 because of incorrect information L&C gave them and delays to their FX transactions.

L&C investigated the concerns that had been raised and partially upheld the complaint. They didn't think they should have done anything different regarding the advice they'd given Mr and Mrs N. But the level of service they'd provided regarding the FX transaction wasn't good enough, so they offered compensation for their error.

Mr and Mrs N brought their complaint to this service and asked for our help. One of our investigators looked into their concerns but didn't think the complaint should be upheld. She thought, in summary:

- The risk level of their holdings shouldn't have necessarily been reduced in October 2019 when they made L&C aware that they wanted to move back to the USA.
- She was satisfied with L&C's initial assessment of Mr and Mrs N's ATR and capacity for loss.
- She'd reviewed the asset allocation of the discretionary portfolio that had been recommended and thought it was in line with their identified risk profile and was suitably diversified.
- She noted that following a review in October 2019, Mr and Mrs N's risk profile had

reduced to 5/10 from 6/10 – medium low instead of medium high. The asset allocation of their discretionary portfolio had changed accordingly, and she was satisfied that the new asset allocation was suitable for their risk profile.

- She hadn't seen anything to suggest that Mr and Mrs N were risk averse or had given any explicit instructions to liquidate their portfolio prior to March 2020.

- She noted that Mr N had over 10 years' investment experience and therefore he should have been aware that the investments weren't guaranteed and could fluctuate in value.

Mr and Mrs N didn't accept her findings. They thought that L&C should have moved their funds to short term holdings once they'd been made aware of the upcoming move. They also thought that their risk profile should have been assessed as low to medium and L&C had ignored their requests to turn their investments into cash.

The investigator wasn't persuaded to change her opinion so the complaint has been passed to me to make 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.

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Having done so, and while I'm aware that it will disappoint Mr and Mrs N, I don't think this complaint should be fully upheld. I can see from the information recorded in the 2018 review that Mr and Mrs N had recently returned to the UK and were planning to invest for 10 years. They were aged 49 and 57 respectively, Mr N was a self-employed consultant who was expecting to earn around £100,000 per annum and Mrs N was retired.

They had no financial dependents or liabilities and their main assets were around £120,000 in US property, $273,000 in US liquid assets and £570,000 in UK liquid assets. At the time, around 79% of their liquid assets were in cash-based investments, 5% in fixed income and 16% in equities as they'd sold down their previous holdings.

I've considered L&C's recommendation that Mr and Mrs N invest £200,000 in a medium-high risk portfolio. The proposed asset allocation was 52% in equities, 41% in fixed income and 7% in cash. From what I've seen, it was well diversified, in line with their ATR and capacity for loss and also met their objective of long-term growth over the next 10 years. Therefore, I'm satisfied that the recommendation was suitable.

The crux of Mr and Mrs N's complaint is that their holdings should have been moved to short term investments when they made L&C aware that they were moving back to the USA and wanted to buy a house. With this in mind, I've considered L&C's actions.

The makeup of Mr and Mrs N's portfolio had changed in June 2019 when they transferred their ISAs worth around £80,000 to L&C. The funds were invested in fixed income and changed the makeup of their portfolio to 37% equity, 58% fixed income and 5% cash.

The documentation from October 2019 notes that they'd decided to move back to the USA and would therefore be looking to purchase a house after they've moved back. However, it was also noted that there were no significant changes to their investment objectives or period which they wished to invest over. Following the discussion, the level of risk Mr and Mrs N wanted to take had fallen to 5/10 from 6/10. There was also discussion of potentially borrowing against the portfolio to fund the house purchase.

I think the documentation made it clear that their ATR wasn't low-risk and their holdings hadn't been moved to short-term readily accessible investments. The suitability review letter said:

'*You recently confirmed that there have been no other significant changes to your personal circumstances, investment objectives or period of time which you wish to invest over, since our last review. As a result, your portfolio remains suitable for your needs and you will continue to be managed in line with the investment strategy that we previously agreed.*

London & Capital manages your portfolio to targeted return and volatility boundaries which are represented on a scale from 1 to 10, where 1 is the lowest level of risk and 10 is the highest level of risk. Your portfolio is managed to a risk score of 5, which is a Medium-High risk portfolio.

Please remember that the value of your investments and any income from them can go down as well as up, so you may not get back the amount invested. Gains made on an investment can be lost and past investment returns do not indicate how well an investment will perform in the future.'

I think this ought reasonably to have made Mr and Mrs N aware that their investment strategy hadn't changed. They were noted as having over 10 years investment experience, so I don't think it's unreasonable to suggest that they had enough knowledge to understand the makeup of their portfolio. I haven't seen that they raised any concerns about their ATR classification and makeup of their portfolio, and I haven't seen that they gave any instructions to move their holdings to short-term investments.

There was further mention of the potential house purchase in an email to L&C in December 2019 where Mrs N said '*We found a house last trip, but it didn't pass inspection. We are going to concentrate on finding a rental this time, while we keep looking for another house to purchase, so that could be quick or slow. We still plan on moving over end of Jan.*'

An email in January 2020 from Mrs N said '*We have rented a house for six month in ****** and will resume our house search to purchase once we get there. We still then, are not sure what funds we need to purchase a house, but wanted to know the time frame and procedures if we decided to borrow some against our savings in London Capital? (I think you mentioned it is about 48hours if we just withdrawal funds correct?)*'.

On balance, I think the content of both those emails shows that there wasn't a definitive plan to use the funds from the investments to fund the purchase, I think there was still the possibility of borrowing against the investments to get the funds. Therefore, I don't think that L&C needed to take any action regarding the makeup of the portfolios and I don't think it was unreasonable to continue managing Mr and Mrs N's portfolios in line with the mandate they'd previously agreed.

Mr and Mrs N emailed L&C on 17 March 2020 and asked them to convert all their bonds to cash and said that they would need the money to buy a home in the near future. L&C acknowledged their email but asked to speak to them before selling the bonds.

During the subsequent conversation, they spoke of the impact that the Covid 19 pandemic was having. Mr and Mrs N said they would need money for the house purchase by July and wanted to know if the bonds they held would lose value by then. L&C told them that three of the bonds were due to mature in the next four months and the longest dated maturity was in 2022. They also said that all the bonds were investment grade and they'd done a lot of analysis before choosing the bonds to purchase.

There was then further discussion about how safe the bonds were. It's apparent that Mr and Mrs N were concerned that the bonds would fall in value, but L&C were of the opinion that the bonds would increase in value as they got closer to maturity.

On March 22 Mr and Mrs N emailed L&C and said '*Hope you are all doing well. Things are moving so quick right now, and it has been a week since we last spoke. As we said, We will be needing the cash from the bonds in June or July, do you think we should still wait on cashing them in?*'

They chased for a response on 24 March and said '… *all we want to know is that the money in bonds which we need for the house is still in the right place, or would you move it to cash? The exchange rates are also extremely volatile and we need to be in a position to move into dollars at short notice if necessary. If you, or one of your team could let us know it would be appreciated*.'

L&C replied and said **'…***The teams opinion is that within the portfolio there are currently a number of bonds due to mature prior to the date you have in mind, so they wouldn't recommend selling those. The remainder of the bonds are in the most part investment grade with short durations. Whilst we believe none of these have any issues from a credit perspective I understand the requirements and therefore the certainty you need to have. With this in mind there are a few of the bonds we would recommend selling, however doing this over the next couple of months as prices recover***.'**

I think this conversation shows that L&C had considered Mr and Mrs N's requirements but didn't think moving their holdings to cash was the right thing to do. As discretionary manager, this was within their remit and I can see they explained their reasoning to Mr and Mrs N who accepted what they had to say. Ultimately this may not have been the best course of action, but we only know this now with the benefit of hindsight and I don't think I can fairly say it was unsuitable.

The situation changed on 20 April 2020 when Mr N emailed L&C and said *'*** and I found a new home yesterday so we need to get $300,000 from the L&C account, can you start converting to cash with a view to transferring to the USA in approximately 3 weeks*.'

L&C then started to sell down the investments and the funds were eventually transferred to Mr and Mrs N in two tranches - c.£155,000 on 30 April and c.£76,000 on 11 May. They accepted that Mr and Mrs N had lost out on a favourable exchange rate due to the second transaction being delayed. They offered redress based on what Mr and Mrs N would have received if the second transaction had been exchanged at the more favourable rate. I think this is fair and reasonable and I won't be asking them to do anything else regarding this point.

So, in summary, and while I appreciate Mr and Mrs N's concerns, I don't uphold this complaint. I don't think L&C acted inappropriately in assessing Mr and Mrs N's ATR in October 2019 and then not converting Mr and Mrs N's holdings to cash. They did make an error in delaying the transfer of the second tranche of funds but I think they've offered fair redress to put Mr and Mrs N in the position they should have been in had the error not occurred.

Putting things right

London and Capital Asset Management Limited should pay Mr and Mrs N $1,289.00 as redress for the lower exchange rate they received when their second FX transaction was delayed. They should also calculate and pay 8% simple interest from the date of the error to the date of settlement.

My final decision

For the reasons I've given above, I partially uphold this complaint. London and Capital Asset Management Limited should pay redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 24 October 2022.

Marc Purnell
Ombudsman