

The complaint

Mr M complains that ITI Capital Limited – referred to as “ITI” or “the transferor” – failed to carry out his instructions to transfer his ISA to a third-party provider, referred to as “the transferee”.

Mr M says that despite chasing the matter hasn’t been resolved satisfactorily.

What happened

Mr M initially held an account with a different provider. In August 2019, following intervention from the industry regulator the Financial Conduct Authority (“the FCA”), the provider went into administration.

In June 2020, ITI eventually took over the previous provider’s client books, and Mr M’s assets and cash accounts were transferred over. I understand that Mr M was told that the account would be up and running by July 2020.

On 6 August 2020, Mr M says he contacted the transferee and requested a transfer of his ISA. The same day, he also contacted ITI to notify it of his instructions to transfer.

On 11 September 2020, Mr M emailed ITI to ask about his transfer and to also notify it that he couldn’t access his account.

On 14 September 2020, ITI replied and apologised for the delay. It provided a phone number to its ‘Dealing Team’ and gave information on how to progress matters, including details that the it/transferee might need.

After some ongoing correspondence, Mr M complained to ITI about the transfer and lack of access to his account. ITI upheld the complaint. In short, it apologised for the delays and recognised that there were some issues with Mr M accessing his account. It offered Mr M £100 compensation for the distress and inconvenience caused.

Mr M rejected ITI’s response, and in due course referred the complaint to our service.

In February 2021, ITI contacted Mr M again asking if he still wished to continue with his intention to transfer. In response to his reply it said that he’d need a transfer request letter from the broker, which it offered to obtain on his behalf. I understand that Mr M replied asking ITI not to contact him again as he felt harassed and upset by the whole process. I also note he’d already referred the complaint to our service by this stage.

In early March 2021, ITI sent a valuation to the transferee, but the transferee replied saying that it didn’t have a record of the transfer request on its system. ITI emailed Mr M again asking for the broker reference number or transferee ID number so that it could progress matters. It subsequently messaged Mr M again in June 2021 about the same issue.

Mr M has now asked ITI to conduct all contact with him through our service. He feels that ITI are now ridiculing him by paying no regard to his request not to contact him.

One of our investigators considered the complaint and thought it should be upheld. In summary, she said:

- It's likely that Mr M applied to transfer his ISA in August 2020, even though ITI hasn't provided a copy of the application form. Nevertheless, it's likely that Mr M wanted to transfer his ISA to another provider at the time.
- Normally, we'd expect transfers to be completed within 30 days, but on the face of the available evidence, it's not entirely clear what happened in this instance, therefore she can't say that ITI is wholly responsible for the delays.
- ITI made numerous efforts to assist Mr M but couldn't go ahead without the appropriate paper work/information. That's why it contacted him and volunteered to try and obtain the necessary information on his behalf.
- Whilst the process has been frustrating for Mr M – because he thought it'd be simpler – she can't say that the business is to blame entirely. Mr M may also wish to speak to the transferee about the issues he's experienced.
- Whilst Mr M had some problems accessing his online account, he was given a phone number to contact the 'Dealing Team' in order to access his account information.
- Overall, ITI failed to provide a reasonable service, particularly in relation to its communication with Mr M, therefore it should pay a total £250 compensation – less any money paid – for the distress and inconvenience caused.

Mr M disagreed with the investigator's conclusion and asked for an ombudsman's decision. In summary, he said:

- Under normal circumstances he'd say that the view was fair. However, in this case there are points that need clarification.
- The compensation recommended by the investigator doesn't take into account the extent of his distress and inconvenience suffered.
- Although ITI contacted him in February 2021, and the transferee in March 2021, it was in his best interests not to correspond with it– as the complaint had already been referred to our service.
- The whole point of referring the complaint to our service was so that:
 - Our service could investigate what happened and why.
 - Protect his investments.
 - Return the investment to what it was before ITI took over.
- He's unhappy that ITI have still failed to provide a value of his portfolio which he'd like to know. He wants to know what the value of his portfolio was at transfer, and what it is now.

Our investigator having considered the additional points, wasn't persuaded to change her mind. In summary, she said:

- ITI provided the following information:
 - The valuation of Mr M's investments at migration was \$21,440
 - The valuation in September 2021 was \$60,140.
 - The conversion rate was 1.3837
- The compensation recommended by her is in line with our service.

Mr R was happy to see the appreciation of his investments but would nevertheless like the matter referred to an ombudsman. He's made clear that he wants to transfer all his assets to the transferee and wants to know how to proceed.

The investigator made clear that she isn't sure of the internal workings of the transferee or ITI but suggested that Mr M may wish to contact the transferee to initiate the process. The investigator also explained that we're not the FCA and that we're not here to "police" financial business or punish them for any mistakes they make.

Mr M made the following final submissions:

- Given everything that's happened, in order to resolve the matter, he'd like the compensation increased to at least £550.
- He's spent at least two days on this case and the compensation would be equivalent to two days' income.
- The appreciation of his investment is down to good-luck and should be discounted, as the markets are still unstable.
- It has taken almost a year to get to this stage, and ITI still hasn't provided a clear answer as to what happened.
- If the investigator can't change her mind and award higher compensation, he'd like the matter to be referred to an ombudsman.

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 going to uphold this complaint.

On the face of the evidence, and on balance, I don't think the business behaved reasonably. However, I think the £250 compensation recommended by the investigator is broadly fair and reasonable.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr M's strength of feeling about this matter. He's provided submissions to support the complaint, which I've read and considered carefully. However, I hope that 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. My role is to consider the evidence presented by Mr M, and ITI, 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 it's for me to decide, based on the available information I've been given, what's more likely than not to have happened.

Based on what Mr M says, it seems to me (in the main) he agrees with the investigator's view, however in order to resolve this complaint he would like more compensation for distress and inconvenience.

On the face of the evidence and on balance, despite what Mr M says, I can't entirely blame ITI for the delays that he's experienced. In other words, on the face of the evidence, and on balance, I'm unable to safely conclude that ITI is solely responsible for the delays experienced.

I'm conscious that ITI couldn't act without the relevant information from other parties, and therefore it was only so far that it could go with the transfer request. Nevertheless, I don't think it managed Mr M's expectations as well as it could've or provide a level of service that he could expect from ITI including issues to do with access to his online account and information about what was going on.

It's not entirely clear the size of the books that ITI took over from the previous provider that went into administration. But it's likely that the new additional accounts and investments will have greatly affected ITI's capacity to deal with the additional customers and increased requests. It seems that there may have also been some IT issues.

Based on what ITI says, it seems its capacity to deal with Mr M arose, in the main, from issues outside of its control.

By way of example, I note ITI in a final response to Mr M stated:

"Please accept our apologies for the lack of access to your trading account. Unfortunately, we have been experiencing high volumes of account access requests as well as some technical issues as a result of the migration.

Unfortunately, there have been several necessary steps that had needed to be taken in order for you to be fully migrated from the previous platform (name anonymised) to ITI Capital. This involved onboarding with Simple 2 Trade (S2T) and then to Interactive Broker's Phoenix. The process of moving from S2T to Phoenix was intended to be automatic, however, certain verification documents were not being read by the Phoenix onboarding system resulting in a manual verification being required."

Even if I thought ITI was solely to blame for the delays, which I don't, based on the appreciation of Mr M's investments – from migration to when the value was provided – it seems unlikely that he's suffered a financial loss, despite his concerns that he's lost money. On the contrary, Mr M's investments appear to be doing very well.

Whilst I note what Mr M says about luck and appreciation of his investments, he isn't automatically entitled to compensation if he hasn't suffered a financial loss, even if the business has made a mistake. In other words, he's not entitled to compensation for losses that he hasn't suffered, even if the business hasn't been able to provide a reasonable service.

I appreciate that Mr M feels harassed and fed up by the whole affair, but I think ITI was only trying to carry out the instructions as best as it could, given the circumstances. Despite what Mr M says, I don't think ITI intended to cause him harassment, alarm or distress. Instead I think it tried to progress matters, including trying to obtain information on his behalf in order to do so.

By way of example, I'm aware that ITI didn't have the broker account number, which on balance would suggest that it probably was incomplete at logging stage, and probably wasn't provided to begin with – it's possible that there were other issues. What is clear is that ITI can't move a request forward unless it has the necessary information.

Nevertheless, I'm mindful that Mr M is keen to re-invest in his old platform and will be instructing the transferee to do so – he's very keen to take his business elsewhere. That's of course entirely a matter for him, but he may wish to seek financial advice before doing so.

On the face of the evidence, and on balance, despite what Mr M says, I think the investigator's recommendation to pay £250 compensation for the distress and inconvenience caused is broadly fair and reasonable in the circumstances. Despite what Mr M says, this isn't a payment based on his daily rate of income, but for the distress and inconvenience suffered as result of the delays for which ITI is responsible and lack of access to his account.

I understand that Mr M is keen to report this matter to the FCA, and perhaps "the LSE" he is of course free to do so if that's what he wants to do. But neither of these are reason for me to give him the compensation he wants.

I appreciate Mr M will be thoroughly unhappy I've reached the same conclusion as the investigator. Whilst I appreciate his frustration, I'm not going to ask ITI to do anything other than pay £250 compensation for the distress and inconvenience caused.

On the face of the available evidence, and on balance, I'm unable to uphold this complaint *and* give Mr M what he wants in terms of redress.

Putting things right

ITI Capital Limited must pay Mr M £250 compensation for the distress and inconvenience caused.

My final decision

For the reasons set out above, I uphold this complaint.

ITI Capital Limited should pay Mr M compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 December 2021.

Dara Islam
Ombudsman