DRN-3456980

The complaint

Mr H is complaining about the delays he experienced in the transfer of his cash ISA from another provider to his stocks and shares ISA with Financial Administration Services Limited (‘Fidelity’).

What happened

Mr H held a cash ISA with another product provider – which I shall refer to as ‘Company A’ in my decision – and wanted to transfer the cash held in that ISA to his stocks and shares ISA he held with Fidelity. He requested the transfer on 16 November 2020 and which he understood should complete within six weeks, but it didn’t take place as it should have done.

The sum of £30,029. 87 wasn’t received into Mr H’s Fidelity’s ISA account until 8 February 2021. Mr H invested the majority of the funds over the next two days plus one additional purchase on 8 March. Mr H wasn’t happy with the delays and had complained to Fidelity in January 2021 who issued its final response to him March. It said;

- It had received the funds from Company A twice – once on 1 December 2020 and again on 19 January 2021 – but was given an incorrect account reference by Company A so couldn’t credit the funds to his account.
- It was later given the correct reference and the cash was received on 8 February 2021.
- In returning one of the payments to Company A there was a delay of a few days, so Fidelity paid Mr H £50 because of this.

Mr H wasn’t satisfied with the outcome and brought his complaint to the Financial Ombudsman. He said;

- that the incorrect account reference number was Fidelity’s error. Company A had used the reference number given to it by Fidelity.
- Mr H wanted an apology, financial compensation for his losses and to be put in the position he would have been if Fidelity hadn’t made the mistake, compensation for the stress he had suffered and to be able to transfer his account away from Fidelity free of charge.

While the complaint was with the Financial Ombudsman, Fidelity further reviewed the complaint and concluded it could have been more proactive in locating the funds and applying them to Mr H’s account. It recognised this had caused Mr H some concern, so it offered an additional £250 because of this.

It also became clear the purchases made by Mr H had been reversed from his account between March and July 2021 – Mr H says he was told by Fidelity this had been done in error. Fidelity acknowledged the funds from the reversal weren’t returned to the ceding broker. It increased its total offer to £400. Fidelity was to reinstate the trades to the dates of purchase and it would make up any costs in the backdating of the trades and buy more units if the value of any of the funds had gone down in the meantime to ensure Mr H wasn't disadvantaged.

Our investigator who considered the complaint thought it should be upheld. She said;

- She acknowledged Fidelity was in the process of restoring the reversed trades.
- Because Fidelity had concluded it could have been more proactive in allocating the funds which were sent by Company A on 1 December 2020, then all the purchases should be backdated to that date.
- Fidelity should waive all exit charges should Mr H choose to move his investments to another provider.
- Pay Mr H £400 for the trouble and upset caused to him in trying to put the matter right.

In response, Fidelity said it had now reinstated all of the trades, it was willing to waive any exit fees and pay £400 compensation for the trouble Mr H had been caused.

But Fidelity did not agree to backdating the purchases date to 1 December 2020. It said that prior to the cash being allocated to Mr H's account on 8 February 2021 there was no indication of an investment strategy. Investments were only purchased after that date. It would not be fair to backdate to 1 December 2020 as it was not responsible for the incorrect account reference number which was provided by Company A. Because of the action Fidelity had taken to subsequently put the matter right, Mr H was in a better financial position.

Mr H responded by saying that Fidelity had again reduced funds on his account without his permission. And Mr H said if Fidelity weren't held to account for the first error in crediting his funds to his account then he hadn't been compensated for the reversal of his trades without telling him, not returning the money to him or explaining what had happened for nearly a year. He should be compensated for that.

As the complaint couldn't be resolved, it 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.

<u>Delay in the cash transfer from Company A to Fidelity</u>

Fidelity has said that it hadn't been able to allocate the funds that had been transferred by Company A as the reference number that was used was incorrect. However, I note that it later said;

> "After re-reviewing the file I believe a more 'proactive' approach could have been made by Fidelity to locate the funds and correctly apply them to [Mr H's] account. Although an incorrect reference number was provided by [Company A] it did match the number on the top of the Fidelity application form. Furthermore, the funds transferred could have been easily been traced as it was an odd amount."

Because of this I am satisfied that Fidelity have acknowledged there was a delay in the allocation of the funds to Mr H's account. The implication of that being that Mr H could have carried out his investments earlier than 9 February 2021 if he had wanted to.

Would Mr H have invested sooner

Our investigator recommended that the trades be backdated to 1 December 2020, being the date that Company A originally sent the cash transfer. In response Fidelity said there was no evidence of Mr H having an investment strategy prior to the purchases he made on 9 February 2021.

We asked Mr H for his recollections about this. Mr H said that he viewed his account regularly so I think it would have been more likely he would have seen the cash credit if it had been received on 1 December 2020. And in making his complaint to the Financial Ombudsman Mr H had told us that the original reason he transferred his cash from his cash ISA to his stocks and shares ISA in the first place was that he thought it was a good time to invest. So, I think it likely he would have had an investment strategy to implement upon receipt of the cash.

Overall, I think it more likely that Mr H would have invested the cash when it was received in his account with Fidelity. We asked Mr H what he thought he would have done if he could have invested earlier. Mr H told us he didn't have any evidence about what he would have done, he couldn't be sure and said he may have done something different. He said that all he knew for certain is what he did do in February 2021.

It can't be known for sure what Mr H would have done but I think it would have been more likely than not that Mr H would have made the investments upon receipt of that cash. And in the absence of knowing for sure what Mr H would have invested into, I think it would be fair and reasonable to the parties to conclude that he would have carried out the same investments which he did when the cash was received two months later.

So all of the trades that Mr H originally made on is account with Fidelity after the cash was received on 9 February 2021 should be backdated to 1 December 2020 because I think it's reasonable to assume that Mr H would have invested at that time, or thereabouts. Any dividend payments that should have accrued during that period or any corporate actions that have occurred should be taken into account.

The reversed trades

After Mr H had carried out his investments in February 2021 it became apparent that Fidelity reversed those trades. It's not clear to me why this happened other than what Mr H has told us Fidelity said to him "that they have sold my investments because there was an error with my transfer, and they require further information."

My understanding is that all of the investments made have been reinstated to the account. But no doubt Mr H was very concerned about where the investments on his account had disappeared to when they were reversed out of his account between March and July 2021. And they weren't fully reinstated until April 2022.

But I note that Fidelity increased its total offer to him to £400 because of this which I think is fair and reasonable in the circumstances of this complaint.

Mr H's inability to trade after the reversals

It took nearly over a year for the trades to be fully reinstated onto Mr H's account and during this time he couldn't trade on his account as he may otherwise have wished to.

But it's not possible to know what action, if any, Mr H would have taken during that time. And without being reasonably sure what he would have done it's difficult for me to conclude that Mr H is due any compensation for potential losses suffered. I've seen nothing to suggest that Mr H tried to trade during this time and no loss has been demonstrated. Because of this, I make no award.

Overall, I uphold Mr H's complaint and Fidelity needs to put the matter right.

Putting things right

To put the matter right Fidelity should;

- Backdate the trades that were carried out after the cash was received in February 2021 to 1 December 2020. Any dividend payments or corporate actions should be considered or adjusted for when putting the matter right.
- Pay to Mr H £400 for the inconvenience he has suffered.
- If Mr H wishes to transfer his account to another provider within six weeks of this decision, Fidelity should do this free of charge.

My final decision

For the reasons give above, I uphold Mr H's complaint and Financial Administration Services Limited should put the matter right as I have outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 December 2022.

Catherine Langley
Ombudsman