

## **The complaint**

Mr W complains that since the migration of his account – from a previous provider to ITI Capital Limited (“ITI”) – he’s been unable to access his account, withdraw funds and/or manage his holdings.

Due to the ongoing account access difficulties, Mr W requested to transfer his account away from ITI. He says this process was delayed and is still incomplete – his RM2 stock is still with ITI, and his account remains open with cash, dividends, and holdings outstanding.

Mr W would like compensation for the financial loss and the distress and inconvenience caused.

## **What happened**

Mr W 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 C’s assets were transferred over. I understand that customers were generally told/led to believe that accounts would be up and running by July 2020, but this has been far from the case.

ITI upheld the complaint and initially offered Mr W £60 compensation. It then increased its offer to £300 as full and final settlement of the complaint.

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

- She wasn’t satisfied that the monetary offer alone was reasonable, because Mr W’s account was still open and contained cash, dividend payments, and holdings that were yet to be transferred/dealt with.
- The following were key points:
  - A letter from ITI shows that as of 5 August 2019, Mr W held £48.61 in cash and 10 holdings.
  - ITI wrote to Mr W about his outstanding assets in 2022. Upon Mr W’s request, it provided a statement for the period between 1 June 2020 and 20 May 2022, but it’s unclear whether or not all the cash was transferred to the new provider.
  - In June 2020 Mr W’s holdings were transferred to ITI. In late November 2020, most of his holdings were transferred to the new provider, except for the RM2 holdings.
  - The statement also showed that Mr W received further shares on his Banco Santander holdings in December 2020, but these were removed from Crest in mid-January 2020 and Mr W is yet to receive these shares, along with some cash dividends.
  - Mr W also believes that he’s due some cash dividends and shares for Banco Santander holdings from March 2021, September 2021, and April 2022 which

- he's not yet received.
  - An email from ITI dated 22 April 2022 confirmed that Mr W had some holdings left in his account. ITI asked if Mr W would agree to have EUR 1.95 converted to GBP, which he confirmed, but is yet to receive the funds.
- She's not satisfied that Mr W's cash, dividends and holdings have been fully transferred to his new provider. So, in order to resolve this complaint ITI should do the following:
  - Provide a statement detailing what dividends have been received in his account since 26 November 2020.
  - Confirm what Mr W can do with his RM2 holdings if they can't be transferred to his new broker.
  - Transfer all of Mr W's outstanding holdings to his new broker, within 28 days, in order to close his account with ITI.
  - Reconsider compensation amount for distress and inconvenience.
  - Complete the steps required to close Mr W's account fully.

ITI hasn't replied or provided any further points for consideration. Because of this, the matter has been referred for an ombudsman's decision.

Mr W replied and made the following observations:

- He checked his new provider account, to which ITI should've transferred the outstanding 29 Banco Santander shares and cash holdings of around £3 – following conversion from Euros – and it still hasn't carried out the transfer.
- The transfer instructions have been with ITI for over two years now, and the outstanding shares still haven't been transferred.
- The RM2 holdings are also outstanding and he doesn't have access to these.
- He still doesn't have a statement showing the dividends ITI have received.
- In April 2022 ITI notified him that he had outstanding holdings. Despite authorising their transfer he's not seen anything.
- He remains a financial prisoner of the company and can't escape. Telephones calls are unanswered, and letters and emails are ignored.
- He hopes that our service can punish the business for its deceit and complete refusal to release his shares with a punitive fine.
- Recently he was notified that ITI is offboarding all its UK customers and ceasing trade in the UK, and that by 30 September 2020 all accounts will be closed unless a withdrawal or transfer has been requested.

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

Because ITI upheld the complaint, the key issue for me to consider is redress, and whether or not what the business offered is fair and reasonable in the circumstances.

On the face of the evidence, and on balance, I think ITI should pay Mr W £350 compensation for the distress and inconvenience caused by the delays, lack of access to his accounts and poor communication.

In the circumstances I don't think it's necessary for me to issue a provisional decision just because I've increased the redress payment by £50 to mark the ongoing delays and distress and inconvenience caused. I'm aware that Mr W has, out of apparent desperation, also complained to the FCA and Action Fraud, and has mentioned that he feels like a prisoner.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr W'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 W, 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. Despite what Mr W wants, it's not for me to punish a business for any wrongdoing, that's the role of the industry regulator, the FCA. So, in the circumstances I can't issue a 'financial penalty' against ITI as it's not within my powers.

Based on what Mr W says, it seems to me (in the main) he agrees with the investigator's view, and the award for appropriate compensation for distress and inconvenience caused. But because the business hasn't materially responded to the investigator's view, I'm obliged to consider this complaint.

On the face of the evidence, and on balance, despite what Mr W says, I can't blame ITI for the entire 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, although I think it probably is responsible for the greater part of these.

I'm conscious that ITI couldn't act without the relevant information from other parties and therefore initially it could only go so far with the transfer request. Nevertheless, I don't think it managed Mr W's expectations as well as it could've done or provided the level of service that he could expect from ITI, including accurate and up to date 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. I'm aware that Mr W was far from the only customer seeking to transfer assets.

Based on what he says, it seems that in August 2020 he probably contacted the transferee and requested a transfer of his assets. At or around the same time, he contacted ITI to notify it of his instructions to transfer. Despite several emails to ITI in August 2020, the transfer wasn't initiated and/or completed until November 2020 – when most of the holdings were transferred to his new provider, except for the RM2 holdings.

Notwithstanding the above, the transfer remains incomplete, with cash, shares in Banco Santander, and RM2 holdings remaining outstanding. Despite ITI confirming, as recently as May 2022, that it would cash Euros to UK sterling and transfer outstanding assets to the new provider, nothing has been done.

In the circumstances, I think ITI should pay Mr W compensation for the distress and inconvenience caused. I'm satisfied that he suffered distress and inconvenience during the entire process, and chasing ITI for answers, for which I've said £350 compensation is broadly fair and reasonable. In other words, I'm satisfied that the compensation broadly reflects the time and effort put in by Mr W to try and resolve the issues.

I also think that ITI should transfer all remaining outstanding cash, dividends, and holdings immediately or as soon as practicable, notwithstanding its decision to cease all business in the UK – including all Banco Santander holdings, and RM2 (if it's possible).

In any case, it should consult Mr W on what his options are regarding the RM2 shares. If the fund has been suspended then it's unlikely Mr W will be able to trade these shares, but he might be able to encash the value of his shares, if he (or ITI) is able to find a willing buyer.

ITI should also provide Mr W with a clear and up to date statement detailing the cash, dividends and shares received since November 2020, after most of his holdings were transferred to the new provider.

Once all the outstanding matters listed above have been dealt with, I think ITI should close Mr W's account in line with his wishes, which it looks like it plans to do in any case. I'm mindful that Mr W is looking forward to leaving ITI and will do 'anything to speed along this process'.

I appreciate Mr W says that ITI lied to him/deceived him about aspects of the transfer, but I'm unable to safely say that this was the case, or that he was deliberately misled by ITI. Evidently there was miscommunication between ITI and Mr W, and possibly the transferee, which wasn't helped by the delays.

Whilst I appreciate Mr W's frustration in this matter, I'm going to ask ITI to pay him £350 compensation for the distress and inconvenience caused.

### **Putting things right**

By way of redress ITI Capital Limited should pay Mr W £350 compensation for the distress and inconvenience caused.

ITI Capital Limited should also:

- Transfer all outstanding cash, dividend payments and holdings immediately to Mr W's new broker/broker of choice.
- Provide a clear statement of all cash, dividends and shares received by ITI on behalf of Mr W since November 2020, to date.
- Consult Mr W on the possible options he has regarding the RM2 shares, and whatever option Mr W chooses, facilitate this as far as is able.
- Subject to the above points, close Mr W's account.

### **My final decision**

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

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

Dara Islam  
**Ombudsman**