

## **The complaint**

Mr L is concerned about how Interactive Investor Services Limited ('IISL') meets its responsibilities under regulatory rules which require it to keep safe custody of clients' money and assets. Mr L refers to these as 'control issues' and he complains that IISL failed to address questions he asked about this when it took longer than expected to transfer his ISA and trading account to IISL and, for some of that time, his money wasn't accounted for.

Mr L said he wasn't particularly interested in disputing compensation but he wanted some answers about control issues which he believes must have failed at IISL and may continue to fail if he or any other investors want to make further transfers.

## **What happened**

Mr L had a trading account with a third party financial business I will refer to as 'A'. He wanted to transfer his trading account and a stocks and shares ISA held with A to IISL and he started the process on 18 June 2021 by instructing A accordingly. Ultimately, it took around three months to complete the transfer and there were times when Mr L's assets didn't appear on either A or IISL's systems. Mr L said this caused him many sleepless nights.

When Mr L complained to IISL it set out in some detail the timeline of events. A admitted responsibility for some of the delays during the transfer process and it didn't follow the procedure it had agreed with IISL when it failed to email IISL to confirm re-registration. For its part, IISL admitted that it had added to the delays due to the confusion in the stock being transferred, so it upheld this aspect of Mr L's complaint. By way of an apology for the inconvenience it caused, IISL credited Mr L's trading account with £30.

Mr L didn't feel this went far enough to resolve things – especially bearing in mind that he'd written to directors at IISL about his concerns and not had any response from them. Whilst Mr L said he appreciated delays were quite normal and acceptable if clients were kept informed, it wasn't acceptable if clients' assets weren't accounted for - in his case, for almost a month. He said not only was it stressful worrying if they'd been lost, but this also made him anxious about what would happen in the event of insolvency or if he needed to sell assets in an emergency situation. So Mr L brought his complaint to us and one of our investigators looked into what happened.

Our investigator was sympathetic but didn't feel she had seen enough to be able to uphold Mr L's complaint. In very brief summary, she explained that our role is to decide if IISL did something wrong or acted unfairly or unreasonably, not to express a view on hypothetical scenarios. She didn't think IISL had made a mistake when Mr L couldn't see money in his account. So she wasn't recommending IISL should pay any further compensation over and above the £30 it had paid already.

Mr L disagreed with our investigator. He provided extracts from the rules set out in the Client Assets Sourcebook ('CASS' rules) along with some detailed notes explaining why he felt IISL had failed to properly reconcile its internal records and accounts to ensure

completeness and accuracy as it was required to do. He remains concerned that he hasn't had a response from IISL's finance director, or any of IISL's other senior directors, and he's worried IISL's existing controls for looking after clients' money are insufficient. Mr L believes that had he not escalated his complaint, his holdings could have remained unreconciled indefinitely, risking him being out of pocket and/or unable to trade.

As the complaint hasn't been resolved, it comes to me for a final 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.

I sympathise with Mr L – I can completely understand that what's happened has been upsetting and frustrating for him. The transfer he arranged essentially comprised his life savings and was for a very significant amount. IISL has admitted there were some poor service issues on its part which compounded delays during the transfer process. But having thought about everything I've seen and been told, I've independently reached the same overall conclusions as our investigator.

I want to assure Mr L that I've carried out an independent review and considered everything that both parties have told me. This includes reading and considering the document he sent in response to the investigator's view with his comments and thoughts attached, which he particularly wanted me to take into account.

We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. It's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. Whilst I might not mention everything Mr L has brought to my attention, and sometimes I will refer to what he's said using my own words, I will comment on everything that makes a difference to the outcome of the complaint.

It's my understanding that the crux of Mr L's complaint is that in the absence of any response from IISL's directors about its CASS compliance measures, he can't be assured about the safety of his holdings. He remains worried, not only about what happened during the transfer process that triggered his complaint, but also the impact on him of what could have gone wrong and what might happen in future if his concerns about IISL's processes for ensuring compliance with CASS requirements are well-founded. Mr L has supplied a press article highlighting what he feels are similar circumstances to his own where the transfer delay was shorter but significantly more compensation was reportedly offered for distress and inconvenience and lost financial returns.

I appreciate Mr L's strength of feeling about how things could have been worse for him and why he would like to feel reassured about the way IISL looks after all its investors accounts and implements appropriate internal controls to ensure it meets all its responsibilities set out in CASS. But I can't award compensation for hypothetical issues that didn't happen as it's not within the remit of this service to do so. And it's the regulator, the Financial Conduct Authority ('FCA') who is responsible for ensuring compliance with regulatory rules and taking action against firms that fail to meet required regulatory standards. So these aren't aspects of his complaint that I am able to address.

I can tell IISL to pay compensation or take other steps to put things right if I am satisfied that IISL did something wrong or acted unfairly or unreasonably and this led to Mr L suffering some detriment and/or financial loss. So that's what I'm concentrating on in my decision.

Mr L put things this way: *'...in my letters to the directors I made it very clear that my assets according to (A) had been transferred and that they had an obligation to reconcile and account for these or.....return these to (A) so they could account for them...'*

To try and assist Mr L, our investigator asked IISL to tell us more about its processes for keeping track of clients' assets. IISL explained it holds funds with a third party which provides settlement and clearing services for multiple brokers and delay receiving information from A held things up. IISL said it acted promptly on receipt of the information it was waiting for. IISL also explained why the lack of a direct relationship with the fund manager for the funds meant IISL wouldn't have had a control issue.

Although the transfers also involved various other financial services providers, in this complaint I'm looking at the way IISL managed its part of the process. If Mr L feels he has further cause for complaint (that goes beyond the scope of this complaint about IISL), then he should first tell each financial business what his concerns are, so they have an opportunity to respond. If he still feels unhappy after that, he may be able to bring a new complaint to this service. We can't award redress for any complaint where the financial business hasn't first been given a chance to put things right.

The way IISL manages complaint-handling isn't a regulated activity that we can look into. But I can consider the service IISL provided to Mr L in connection with this matter generally and the extent to which IISL was responsible for delay.

The investigator set out a detailed timeline of events and neither party has taken issue with the background facts as she set them out. So I don't feel I need to repeat information that the parties haven't disputed or say much more about how the delay happened. In brief summary, it's my understanding that Mr L had shares IISL could not hold or trade ('unsupported assets'). This meant additional work was needed and inevitably added to the time the transfers would take. For instance, Mr L's further instructions had to be obtained and relayed to the parties involved, sales needed to happen and new valuations had to be done on occasions throughout the transfer process. Communications between everyone involved didn't always happen on a timely basis. So it's clear to me that the transfer of Mr L's holdings was not straightforward. And I've thought carefully about IISL's part in all this and what IISL should fairly and reasonably do to put things right in these circumstances.

Mr L was understandably very worried when he was unable to see his assets accounted for either on his new IISL account or his old account with A. I appreciate why he wanted an urgent explanation and assurances from IISL's directors about this and he's unhappy with the amount of chasing he felt necessary – and the fact he still hasn't had the responses he feels he's entitled to expect to receive in response to the complaint he's made.

IISL explained it has a customer service team and a complaints team for dealing with customer issues and said it provided updates and replied to Mr L's secure messages within the specified response times set out in their service level agreement. IISL provided evidence to show it attempted unsuccessfully to contact Mr L on 21, 22 and 24 September 2021 to discuss matters with him before sending its written response to his complaint. I wouldn't reasonably expect the company directors involved in running IISL to get involved with particular issues arising on individual accounts when they had already established specialist teams whose specific role was to investigate and address client queries and complaints. It seems likely to me that the people in those teams would probably be best placed to explain what happened, given that investigating problems and taking steps to put things right is a key part of their job role. And as far as I can see, IISL did make reasonable attempts to get in touch with Mr L to discuss his concerns. The fact that the directors still haven't responded to him in person isn't a reason for me to uphold his complaint.

IISL didn't get everything right, as it admitted. There was confusion about the stock being transferred when IISL sent Mr L a list of holdings which included some assets he didn't hold. IISL explained that was an administrative error. Mr L didn't recognise all the assets listed and followed this up with IISL when corrections were done and the matter was able to progress. So I can't fairly say that IISL's error had a significant impact on the delay Mr L experienced overall. As far as I can see, IISL generally responded to Mr L's secure messages within a reasonable time and the bulk of the overall delay wasn't due to IISL's handling of the matter – rather, the complications of Mr L's holdings, the involvement of a nominee business as well as a third party financial business instructed by A and admitted shortcomings on the part of A all added to the time it took to complete the transfer.

I've taken into account that although Mr L has said the £30 compensation IISL paid for this isn't his main focus, he's also said that the amount is '*tiny in comparison to the distress this issue has caused*'. But I find that the £30 paid by IISL is broadly fair and reasonable to reflect the limited impact on Mr L of its own shortcomings in the service it provided during the transfer process. It reflects the amount I would expect IISL to pay in these circumstances. If IISL hadn't already volunteered this payment, I can't fairly say that I have seen enough to make me think it would be fair and reasonable to award any more than £30.

And whilst Mr L sent 30 or so messages and made up to 10 phone calls, and it's clear he spent a lot of time chasing the transfer, for the reasons I have explained, I don't think it would be fair to ask IISL to make any additional payment here.

I haven't seen enough to show that Mr L suffered any direct financial loss as a result of the transfer delay that IISL was responsible for.

So, whilst I'm sorry to disappoint Mr L, I'm satisfied IISL dealt with his complaint fairly and I'm not telling it to take any further action.

I hope that setting things out as I've done explains how I've reached my conclusions and even though this isn't the outcome Mr L hoped for, he will at least feel that his complaint has been fully considered by the Financial Ombudsman Service.

### **My final decision**

As Interactive Investor Services Limited has already done everything I would expect it to do to put things right for Mr L, I am not upholding Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 February 2023.

Susan Webb  
**Ombudsman**