DRN-3868179

The complaint

Mr W complains about Raymond James Investment Services Ltd (RJIS). He's unhappy with how they managed his portfolio and thinks that they made poor investment decisions which were unsuitable and generated excessive charges.

What happened

Mr W became a client of RJIS in 2018. He entered into a discretionary agreement with them to manage his portfolio valued at c.£2,000,000 with an investment mandate based on a risk profile of 5 out of 7.

He complained to them in 2021 and said, in summary, that they'd charged him excessive fees and his portfolio manager had made investments that weren't in line with his attitude to risk (ATR) or investment profile.

RJIS looked into the concerns he'd made and partially upheld his complaint. They offered him compensation for excessive charges but didn't think they'd made any investments that were outside of the agreed mandate. They accepted that performance had been poor but thought it was due to poor stock selection as opposed to negligence or excessive risk. They also thought a significant number of withdrawals had been made from Mr W's account during the relatively short time it was open which had affected its performance.

Mr W accepted the compensation for charges in full and final settlement of that aspect of his complaint. But he didn't agree with the findings on the other part of his complaint and asked us to look into matter. He made the following points, in summary:

- He'd clearly stated from the outset that he was a fairly cautious investor, looking to invest for the long term. His requirement was for decent dividend income (around £50,000 - £70,000 yearly) with capital growth to at least match inflation and he was told this should be easily achievable on an investment of c.£2,000,000.

- He was surprised to discover that the Client Investor Profile (CIP) questionnaire showed he was willing to accept a higher degree of risk. He thought his stated aims should have been given greater priority and was of the opinion some of the questions were very leading, or even misleading. As a fairly naive investor he didn't think it was unreasonable to answer 'yes' to being informed of a particular investment without understanding the consequences of the answer.

- Initially, although the overall portfolio value dropped a lot, dividend income was in line with his stated aims. As a long-term investor, he was naturally disappointed but not too worried as he trusted the portfolio manager to gradually make back the losses whilst continuing to make the income he wanted.

- The portfolio manager initially seemed to be mostly buying shares in fairly stable companies paying decent dividends with just a few more speculative trades, holding them for a decent period to give them time to recover if they did fall in value, believing that they were still good, undervalued companies.

- However, over time the portfolio manager's strategy changed and by early 2019 his strategy was causing concerns. Dividend income fell from c.£60,000 in 2018/19 to c.£23,000 in 2019/20. The portfolio manager did not inform Mr W of a change in strategy to focus on capital gains which meant taking significantly higher risks.

- The dividend income in 2020 was only c.£8,000 but this was understandable due to market conditions at the time. However, Mr W noticed that there were far more short-term investments than before. In 2018/19 positions tended to be held for many months, often a year or more but in 2020 it was often just a couple of weeks. Some of this could be explained by the pandemic but Mr W became increasingly worried that most of the investments were in relatively small companies.

- In the first half of 2021 the portfolio fell by around 21% despite around £500,000 being held as cash. Following on from this the portfolio manager consistently underperformed the market and performance could have been worse had it not been for some of the risky purchases making gains.

His complaint was considered by one of our investigators who didn't think it should be upheld. The investigator was of the opinion that the portfolio had been managed in line with Mr W's ATR and the mandate that had been agreed. He noted that Mr W had made several withdrawals from the portfolio and hadn't held the portfolio over the long term as agreed. He thought this would have impacted performance and also thought that some of the losses were due to the volatility of the markets during the Covid-19 pandemic.

Mr W didn't accept the investigator's findings. He thought the investigator had come to an outcome based solely on the CIP document, which was itself partly based on various leading questions with no explanation as to their significance, rather than his stated aims and needs he agreed with the portfolio manager before any decision to invest was made.

He reiterated that he thought the portfolio manager initially invested in line with what had been agreed - mostly larger companies paying decent dividends - but over time changed strategy dramatically without informing him, and certainly without any agreement. He also clarified that when he stated that he was a long-term investor, this was in relation to the knowledge that in the short-term decent companies can suffer a loss in value, but he would be prepared to wait for things to turn around. It wasn't in relation to being willing to accept a multitude of extremely risky trades in the hope that over the long term enough of the gambles would pay off.

He was never willing to accept such a strategy and he'd told the portfolio manager about this, as well as his dissatisfaction with the reduced dividend income. The portfolio manager had acknowledged this in one of his notes and was also aware of the dissatisfaction at his divergence from the agreed strategy long before his investments became even more risky.

Regarding the withdrawals, the majority of them had been agreed with the portfolio manager before investing. He was fully aware of Mr W's plans to pay off his mortgage, purchase a car and pay his ex-wife a lump sum. Some of the transactions had happened sooner than anticipated but had already been discussed before investing as the portfolio manager had acknowledged in an email from November 2017.

The investigator wasn't persuaded to change his 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.

Having done so, I don't think this complaint should be upheld and I will now explain why. I'd firstly like to clarify that I am not considering the complaint point around charges as Mr W has accepted compensation in full and final settlement of this point. Therefore, what I have considered are Mr W's concerns around the suitability of the investment decisions made by the portfolio manager.

RJIS in their capacity as discretionary manager, had the final say on how to achieve Mr W's investment objectives, provided they were acting within the mandate that was agreed. I've therefore considered the mandate that Mr W agreed with RJIS. The initial email from the portfolio manager to Mr W in November 2017 said:

"*From our discussion I understand that you intend to continue working for another year or so, and then will retire and live off the rental income from commercial property ……., and whatever you choose to draw from your investment portfolio. After various expenses and indulgencies, you expect the investment portfolio to have an initial value of not less than £2.5m. Barring maintenance payments to your ex-wife (which you may seek to settle with one lump sum), and a mortgage of £360,000 fixed at 2.7%, you have no liabilities. Your objective is to preserve your capital, ensuring it keeps pace with the rising cost of living, and therefore is able to support you and your partner in retirement.*"

The CIP document from December 2017 gives more detail and sets out Mr W's experience and objectives. It was recorded that he had recently sold his business and was looking to transfer his existing portfolio, valued at c.£2,100,000 which represented around two thirds of his liquid assets, to RJIS.

He had investment experience in gilts, corporate bonds, commercial property, UK and International equities, single company stocks and shares and also collective funds. He'd been self-selecting ISAs and selecting unit trusts for his SIPP in the past, as well as investing directly into UK company shares. RJIS classified him as having an informed knowledge of investments in general which was defined as: "*General knowledge of relevant financial instruments. An informed investor can make an informed investment decision based on the KID and has the wider understanding of the risks associated with specific investments."*

They assessed his attitude to risk as 4 out of 7 but proposed to manage the portfolio on mandate of 5 out of 7 which equated to 25% defensive (lower risk) holdings and 75% growth (higher risk) holdings. The reason for the increase was noted as *"This is a long-term investment portfolio in which the capital needs to be protected from inflation, hence the 75% growth approach".*

There were no specific restrictions in place and a section of the CIP was devoted to "Wider Range Investments" which were defined as investments which would normally only be used by professional investors or institutions because they may, for example, be complex, require high minimum investment, or have limited accessibility. These characteristics would normally make them higher risk and generally unsuitable for most other clients.

Mr W signed to say that he was happy to receive advice on unregulated or wider range investments and/or have them included in his portfolio. It also confirmed that he:

- Had discussed the risks involved with unregulated and wider range investments with his Wealth Manager

- Understood which type of unregulated and wider range investments may be included in any recommendations or his investment portfolios and why

- Understood that unregulated and some wider range investments are not covered by the FSCS and he may not be able to claim compensation should the scheme fail

Having considered the content of the CIP, and while I accept that Mr W thinks some of the questions it asked were leading, I think it shows that Mr W was happy to include riskier investments in his portfolio having understood the risks involved. I appreciate he has said that he was a cautious investor, but I don't think this matches up to what he agreed to and what was recorded at the time. Given his investment experience – he'd been making his own investment decisions for a number of years - I don't think it's unreasonable to suggest that he ought to have had an understanding of the risks involved in the mandate that RJIS proposed.

In his submissions to this service, Mr W has said that he was happy with the initial approach taken by RJIS and it was only around 2019 when they started to veer off the path that he thought they'd agreed. I appreciate that Mr W is unhappy with some of the trades the portfolio manager made but it is important to note that we do not consider individual transactions in isolation, instead we consider the overall level of risk of the portfolio. I don't think it's unreasonable for a portfolio to contain some higher risk investments provided they are balanced by lower risk holdings and the overall makeup of the portfolio remains within the agreed risk levels of the client.

I've considered the makeup of the portfolio and the trades the portfolio manager made in the framework of the agreement Mr W had with RJIS. The CIP document set out that 75% of his portfolio could be made up of high-risk investments and he was also willing to accept complex, higher risk investments within the portfolio. It is with this in mind that I do not think RJIS have acted inappropriately. From what I've seen, I think that the makeup of the portfolio at the periods I've reviewed have been broadly in line with the level of risk that Mr W agreed with RJIS.

I accept Mr W is unhappy with the performance of the portfolio and the reduction in dividend income, but we cannot look at performance issues, all I can look at is whether the portfolio was managed in line with the agreement and for the reasons I've set out above, I think it was. I'm sorry to disappoint Mr W but I'm not going to uphold his complaint.

My final decision

For the reasons I've given above, I don't 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 18 April 2024.

Marc Purnell
Ombudsman