

The complaint

Mr and Mrs T complain about the accuracy of the records kept by Investment Funds Direct Limited ("IFDL") regarding their general investment accounts.

What happened

Mr and Mrs T each have general investment accounts with IFDL, managed via a third-party adviser. Around 2018 Mr T became concerned with the accuracy of the annual tax reports, compiled by IFDL, for Mrs T's account. He looked into this more fully in 2020 and IFDL admitted there were errors and issued a revised report for Mrs T. IFDL also introduced a change to their system to ensure correct reporting going forward. They offered to refund three months of fees, amounting to £1,317.87, and £200 for the distress and inconvenience caused.

Mr and Mrs T remained unhappy as there were other areas which they felt remained incorrect – in particular whether IFDL held full records of income distributions in their accounts. Mr T didn't have access to all the information available and so was concerned over whether IFDL were keeping proper records.

Specifically, he wanted to know whether exact records are kept of deemed income on accumulation funds and liabilities created by equalisation adjustments and applied to each individual's account - or whether this information is simply gathered from various sources when needed. He suspected it was the latter, which he felt was a riskier way of keeping records. IFDL reassured Mr T that they had a robust record keeping process, but declined to go into detail about it. Mr T felt that IFDL did not provide a sufficient explanation for this question, and so raised his complaint with our service. He also became frustrated with the time it took for IFDL to provide answers to his questions.

An investigator at our service explained that we are unable to audit IFDL's records, nor are we able to direct them to change their record keeping processes. Unhappy with this reply, Mr T said, in summary:

- He'd spoken to the Financial Conduct Authority (FCA) about it, but they referred him to our service.
- There has been a cost to him and Mrs T in terms of their time spent identifying the problem and raising it with IFDL. They've also had to resubmit tax returns to HMRC to correct the position, causing inconvenience and embarrassment.
- The way these records are kept leads to greater chance of error and is a weaker way of holding the data.
- IFDL refused to answer his questions about where and how the data is stored and he's not convinced their control over the data is robust – because if it was, the problem he identified would not have existed.

The investigator wasn't persuaded to change his mind and so the complaint has been passed 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.

My role is to consider whether IFDL has treated Mr and Mrs T fairly and reasonably in the way they've administered their accounts. Though I know Mr T has already spoken to the FCA and been referred back to our service, I want to begin by explaining the difference in our powers, in order to establish what I'm able to do and award in this complaint.

The purpose of our service is to resolve disputes between a complainant and the respondent firm. Where I find a firm has done something wrong, my aim is to make an award for any financial loss caused, or a direction, with the aim of putting the complainant back in the position they'd be in, if the error hadn't occurred. I'm also able to make awards for the distress and inconvenience a firm has caused. As part of this dispute resolution service, we rely on the parties to the complaint to send us the evidence required in order to look into the concerns raised. We don't carry out audits of a firm's systems and we don't routinely visit a firm's offices, or gain access to their systems ourselves, to investigate complaints.

We are separate from the FCA, and we aren't privy to the day-to-day investigations they carry out into a firm's activities. My understanding is that the FCA, when made aware of concerns by complainants or our service, doesn't necessarily release any information about what they've done with those concerns to the public in general, or the people that raised them.

I appreciate that Mr T has been frustrated by IFDL's refusal to answer his questions about the way in which they record and store the data in question. It appears that Mr T's goal in asking these questions is to persuade them to change the way it's stored (if indeed it's stored in the way he feels carries more risk for error).

I'm satisfied that the way IFDL stores and retrieves data is at their discretion, provided it complies with the various regulations and keeps the data safe, ensuring it's accessible when needed. I don't think IFDL need to divulge the detail of how they store it to Mr and Mrs T, again provided it's safely stored, and they can answer Mr and Mrs T's questions about their investments. It's commercially sensitive information. I've seen no evidence that the data isn't safe, or that IFDL has been unable to reconcile records as needed – other than the error they've already rectified. So, I don't think the refusal to answer this question is unfair or unreasonable.

It's undisputed that IFDL did report incorrect information in at least one of the annual tax reports for Mrs T's account – and that this appears to have only come to light because of Mr and Mrs T's work. There's been no direct financial loss because of this and IFDL have already reissued the statement with the correct information.

So, I need to consider an award for the distress and inconvenience caused to Mr and Mrs T. As part of this, I've considered the fact Mrs T has had to deal with HMRC processes to ensure the tax she's declared and paid is correct. I've also taken into account the time IFDL took between Mr T raising these questions and providing him with a final answer. IFDL has already offered £200 as compensation, plus a refund of three months fees for the delays and level of service provided. So, in total, IFDL have offered just over £1,500 in compensation for the distress and inconvenience caused by this situation.

I think this is a more than fair amount to make up for the time it took and the impact this had. I note Mr T has said it doesn't go far enough to compensate him for the time he's spent investigating and discussing this issue. However, the compensation we award isn't designed

to pay someone an hourly rate or similar for the time they've spent complaining in that way. Rather I consider the overall impact caused by the issue, including how the firm reacted to minimise the impact.

Here the issue was fixed once it was brought to IFDL's attention. Though it took IFDL a long time to answer Mr T's questions, the answer to the question at the heart of his complaint was always going to be one he disagreed with – that IFDL wouldn't divulge the detail of their background systems and records. So, the impact of the delay was simply that it took IFDL longer than it should have to give Mr T an answer he wasn't happy with.

I note Mr T's worries that there are likely to be future errors here due to the way the data is stored. I don't consider that the presence of one error – which has been identified and fixed – necessarily means that there are others, or that there will be. Unfortunately, it's not possible for any firm to be completely infallible, regardless of the way they operate their business. If further errors do occur, then Mr and Mrs T would be entitled to raise complaints about them. In this case, I don't think it would be fair or reasonable of me to make an award for what *might* happen in the future to Mr and Mrs T.

Overall, I'm satisfied that the amount IFDL have offered is a fair and reasonable way to resolve the complaint.

My final decision

Investment Funds Direct Limited has already made an offer to pay £200 plus a refund of three months' worth of fees to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Investment Funds Direct Limited should pay Mr and Mrs T £1,517.87.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 19 September 2023.

Katie Haywood
Ombudsman