

## The complaint

Mr R Complains Vanguard Asset Management Ltd (“VAM”) acted unreasonably and unfairly when carrying out its due diligence checks, provided poor administration in relation to his SIPP, and didn’t handle his complaint properly.

To put things right, Mr R doesn’t want compensation, but acknowledgement VAM was *heavy handed* and *over enthusiastic* in exercising its obligations.

## What happened

In April 2023, VAM asked Mr R for information about his source of wealth and verification of his address and identity. VAM explained it was placing withdrawal restrictions on Mr R’s general and SIPP accounts until its review was complete. VAM also explained what specific information and documentation it needed. Mr R sent information to VAM.

A few days later, after reviewing what Mr R had already sent, VAM asked him for further supporting information, which included:

- Documents to show he sold his business
- How Mr R funded his savings which were used to buy a second home. If the funds came from his employment, he should send it supporting documents
- Documents relating to the sale of his previous property which funded his current one
- VAM cannot accept the bank statement Mr R has already sent in to verify his address. That’s because the transactions need to be visible to ensure the validity of the document. Mr R was also given suggestions of other documents he could use instead to verify his identity which included a driving licence

Mr R responded and said he had provided VAM with the financial questionnaire, but he felt the requests for further information had become intrusive, especially as he had been a customer for around five years. Mr R added the funds he had invested with VAM were from another regulated firm where he had been a long-standing customer. Mr R volunteered to send details of the funds from that account and a press release related to the sale of his previous business.

Mr R also said he did not have payslips from over 16 years ago and that he had moved into his current property over 30 years ago – so he no longer has any documents relating to the property he sold prior to that.

Mr R later expressed his dissatisfaction with how VAM was conducting its review. He also added that he and his wife have been UK citizens from birth and have not been involved in any crime, suspected of money laundering, nor are they politically exposed persons or have any links with high-risk countries.

Unhappy with the nature of VAM's review and request for information, Mr R complained. In early May 2023, some three weeks after VAM initiated the review, it informed Mr R that its checks were complete and any previous restrictions on his accounts would now be lifted.

VAM sent Mr R its response to his complaint which was partly upheld. In summary, some of the key points VAM made were:

- As a regulated financial institution in the UK, VAM is required to comply with anti-money laundering regulations. Restrictions were placed on Mr R's account as part of its process of building a profile of how his wealth had been generated. This is done to protect VAM, and Mr R, given the high value of funds in his account
- There are multiple reasons why VAM may request information from Mr R. It's unable to provide all the potential scenarios, but these measures are to ensure VAM's safeguarding measures are not compromised
- It's a business decision not to accept redacted bank statements or screenshots of verification documents to ensure they've not been tampered with in any way. It's a risk-based approach
- Whilst documents relevant to its checks may be of public record, VAM is required to request this from an individual directly as it can't assume it would form part of Mr R's source of wealth
- VAM cannot discuss anything about Mr R's wife's account with him. If she has any concerns, then she would need to contact VAM separately
- VAM didn't remove the restrictions from Mr R's SIPP account correctly, which led to a monthly drawdown payment not being taken in May 2023. And it didn't arrange for the one-off withdrawal to cover his April drawdown payment in a timely manner. So VAM credited Mr R's external account with £75 for the trouble and upset its customer service failings caused him

Mr R referred his complaint to this service. I'd like to assure Mr R that I've carefully read all his submissions, even if I don't explicitly reference everything he's said here. Some of the key points he raises are:

- The risk of his account being used for money laundering or terrorist financing was extremely low to non-existent, especially as he had voluntarily offered to send VAM proof of his source of funds before increasing the investment with it
- He understands VAM is required by the Financial Conduct Authority (FCA) to conduct due diligence to satisfy itself customers aren't involved in money laundering or terrorist finance. But it's his understanding that Money Laundering Regulations and associated guidelines allow regulated firms to assume a draw on an account in the customer's name with a UK or EU equivalent credit institution satisfies customer due diligence requirements
- The relevant regulations also further clarify that enhanced due diligence measures are determined by firms on a risk-sensitive basis. A firm must be able to demonstrate that the extent of any enhanced due diligence measures it applies is commensurate with money laundering and terrorist financing risks
- A subsequent Subject Access Request Mr R made showed he was assessed as a high-risk customer. But VAM has not demonstrated any money laundering or terrorist

financing risks associated with his account which would require or justify the need for enhanced due diligence checks

Mr R has also itemised his complaint points. I note he doesn't feel our Investigator addressed them directly. So to assure him that I've thought about all of them in reaching my decision, I'll summarise them here:

1. VAM suggest Mr R objected to meeting its money laundering requirements. But Mr R had returned its financial questionnaire as requested. Mr R objected to the over-enthusiastic application of checks on information VAM already held and information he had already offered to provide in advance. VAM's checks went beyond the FCA guidelines
2. VAM unreasonably didn't accept that payment from Mr R's verified UK regulated bank account satisfied its standard money laundering due diligence requirements as the guidelines allow
3. VAM unreasonably classified Mr R as a high-risk customer and thereby conducted enhanced due diligence (EDD) without the justification required by Money Laundering Regulations (MLR) guidelines
4. VAM acted unreasonably in asking for identity and source of funds information. It pointlessly sought salary confirmation from 16 years ago and of a house sale that took place over 30 years ago. This was not needed to meet any MLR obligations
5. VAM unreasonably rejected a headed bank statement as proof of his address because the financial transaction on there were redacted. Transactions details were not needed to prove Mr R's address, which it was already fully aware of
6. VAM unreasonably rejected a screenshot of Mr R's driving license as an alternative proof of address – requiring a photograph of the same image instead
7. VAM unreasonably and without good cause froze withdrawals from Mr R's general and SIPP accounts
8. VAM's offer to arrange withdrawals from the frozen accounts by agreement with him was done in bad faith. That's because his request for the April pension payment be allowed through was denied
9. VAM failed to reinstate Mr R's regular pension drawdown once the restrictions were lifted and his payment for May never arrived. The £75 compensation barely recognises this failure
10. VAM failed to consider Mr R's complaint about its intrusive and unreasonable due diligence checks until the checks had completed and run its course
11. VAM were unprofessional by not acknowledging or replying to Mr R's letter of protest to its Head of Personal Investor Services
12. VAM unreasonably asked Mr R to send it a letter explaining whether the funds for his wife's latest investment to her general account was a gift from him, and whether it would recur in the future
13. The MLR's do not require VAM to do all it did, and it cannot use secrecy over the MLR's to avoid justifying or explaining why it acted the way it did. VAM can't

distinguish between high-value and a high-risk client. So it's failed to treat him fairly or reasonably

One of our Investigator's then looked into Mr R's complaint. In summary, they found:

- Anti-money laundering rules are very strict and firms like VAM can get into serious trouble, including custodial sentences, if they fail to carry out their checks properly
- They can understand why Mr R feels some of the information requested was intrusive, but the evidence shows the proceeds from his matured investment were more than £1.8million, which is a high deposit amount
- VAM had to satisfy itself of the source of the large deposit Mr R wanted to make – albeit that it was from another provider. Failure to do so could result in VAM breaching MLR rules and having to suffer consequences because of that. So VAM hasn't done anything wrong here

Mr R didn't agree with what our Investigator said. In short, and to avoid repetition, some of the novel points he made were:

- His deposit with VAM was around £650,000 not £1.8million. He was already a high value account holder and can't see why this figure is pertinent to his complaint
- Mr R has already made it clear beforehand that VAM had not asked for proof of his source of funds – but he had done so uninvited
- Much of the information VAM asked for was unnecessary as it already had it - especially as Mr R was already its customer for around five years prior
- No weight has been given to the FCA handbook guidelines on the application of the MLR's. They say that if an investment is funded from a UK regulated bank account it should be accepted following standard due diligence checks being completed
- The FCA guidelines also require VAM to demonstrate EDD measures are commensurate with MLR and terrorist financing risks. There is no justification for this or for classing Mr R as a high-risk customer. So VAM went beyond what it is reasonably required to do
- Our Investigator hasn't addressed Mr R's itemised complaint points

As there is no agreement, this complaint has now been passed to me to decide.

### **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've decided to not uphold Mr R's complaint. I'll explain why.

Firstly, I'd like to add that I'm very aware I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't

need to comment on every individual argument to be able to reach what I think is the right outcome. I do again emphasise however that I've considered everything Mr R and VAM have said before reaching my decision.

To my mind, and broadly speaking, I think Mr R's complaint falls into three broad headings. For the sake of simplicity, I'll deal with each of these turn. They are:

- (i) VAM failed to apply its CDD and/or EDD obligations fairly and reasonably;
- (ii) VAM failed to properly administer Mr R's SIPP payments in April and May 2023 and reinstate regular payments thereafter; and
- (iii) VAM hasn't handled Mr R's complaint professionally or in a timely manner

#### VAM's review and due diligence checks

It's worth noting regulated businesses in the UK, like VAM, must comply with extensive legal and regulatory obligations. They are also required to carry out ongoing monitoring of an existing business relationship. And that sometimes means they need to restrict, or in some cases go as far as closing, customers' accounts.

These obligations generally cover the entire period of its customer relationship – from application to eventually the end of the relationship. This includes Know Your Customer (KYC) checks and/or Customer Due Diligence (CDD). It's worth noting these checks include not just the verification of a customer's identity, but also establishing the purpose and intended nature of the business relationship and origin of funds.

VAM restricted Mr R's ability to make withdrawals during its review. Having carefully considered this, I'm satisfied it's done so in line with its obligations.

I'm aware VAM carrying out CDD and a source of funds review isn't contested here - especially as Mr R volunteered to send such information to VAM. But I'm satisfied, even if it was instigated by Mr R volunteering information, that VAM acted in line with its obligations when carrying out a standard CDD review.

This brings me onto what to my mind is the crux of Mr R's complaint – that is VAM shouldn't have classed him as a 'high-risk' customer and carried out Enhanced Due Diligence (EDD). The FCA's *'Financial crime: a guide for firms'* says:

*"Firms must apply EDD measures in situations that present a higher risk of money laundering. EDD should give firms a greater understanding of the customer and their associated risk than standard due diligence. It should provide more certainty that the customer and/or beneficial owner is who they say they are and that the purposes of the business relationship are legitimate; as well as increasing opportunities to identify and deal with concerns that they are not..... The extent of EDD must be commensurate to the risk associated with the business relationship or occasional transaction but firms can decide, in most cases, which aspects of CDD they should enhance. This will depend on the reason why a relationship or occasional transaction was classified as high risk"*

This guidance also says:

*"The ML Regulations also set out three scenarios in which specific enhanced due diligence measures have to be applied:*

- *Non-face-to-face CDD: this is where the customer has not been physically*

*present for identification purposes, perhaps because business is conducted by telephone or on the internet*

- *Correspondent banking: where a correspondent bank is outside the EEA, the UK bank should thoroughly understand its correspondent's business, reputation, and the quality of its defences against money laundering and terrorist financing. Senior management must give approval to each new correspondent banking relationship*
- *Politically exposed persons (PEPs): a PEP is a person entrusted with a prominent public function in a foreign state, an EU institution or an international body; their immediate family members; and known close associates. A senior manager at an appropriate level of authority must approve the initiation of a business relationship with a PEP. This includes approving the continuance of a relationship with an existing customer who becomes a PEP after the relationship has begun*

*The extent of enhanced due diligence measures that a firm undertakes can be determined on a risk-sensitive basis. The firm must be able to demonstrate that the extent of the enhanced due diligence measures it applies is commensurate with the money-laundering and terrorist financing risks"*

I'd like to assure Mr R that I've also considered what the MLR's, and The Joint Money Laundering Steering Group's (JMLSG) 'Prevention of money laundering/combating terrorist financing' guidance says about CDD and EDD. Having done so, I'm satisfied that a regulated business has to take a risk-based approach to whether any part of CDD has to be enhanced.

I've also considered the information from the FCA's website Mr R has sent in which says:

*"The JMLSG's guidance provides that, in situations where the risk of money laundering/terrorist financing is very low and subject to certain conditions, firms may assume that a payment drawn on an account in the customer's name with a UK, EU or equivalent regulated credit institution satisfied the standard CDD requirements"*

VAM say that due to the value of the deposits made Mr R was identified as 'high risk'. I also note that Mr R's net worth, as per his financial questionnaire, shows he is a high net worth individual. Ultimately a regulated business has to use its own judgement in employing a risk-based approach. I'm persuaded that by looking at the wealth profile of its customer to determine if they are high risk is a reasonable approach in the circumstances of this complaint.

I understand what Mr R is saying about when funds are from another UK regulated credit institution and what a firm *may* assume based on the guidance on the FCA's website. But when looking at the MLR's, relevant guidance from the JMLSG, and the FCA in the round, and as such guidance is based on what VAM *may* do – it stills needs to use its judgement and a risk based approach when categorising a customer as high risk. And as I've said, I'm persuaded it's done so fairly and reasonably based on Mr R's wealth. High value funds after all pose a higher money laundering risk.

I'd also add that in order to carry out EDD one of the criteria the MLR's set out as to when it should be done is where the customer has not been physically present for identification purposes, perhaps because business is conducted by telephone or on the internet. From what I've seen, I'm satisfied Mr R conducted his business with VAM at arm's length – in other words it wasn't likely done face-to-face. So in addition to asking more detailed questions about Mr R's source of funds and wealth, I'm satisfied VAM didn't do anything

wrong in asking Mr R for documents that verify his identity and address.

Mr R isn't happy VAM didn't accept his redacted bank statement nor a mobile phone screenshot of his driving licence as proof and verification of his address. VAM say that it can't accept either in that way as it needs to be satisfied such documents are legitimate and unaltered. After careful consideration, I'm satisfied this is a reasonable approach. So I don't think VAM has done anything wrong in asking for the address verification documents in the way it has.

I've looked at the information VAM asked Mr R to provide it with from the beginning and throughout its review. I note Mr R says that VAM were over enthusiastic, intrusive, and unreasonable in the requests that it made. Specifically, he details having to provide payslips from over 16 years ago, and documents about his property sale more than 30 years ago. From what I've seen I can't see VAM asked for this information in this way specifically – but I can understand why Mr R felt he needed to send this in response given the broad wording of the information request.

Mr R made these points to VAM, and it appears this was taken into consideration. VAM's review took around three weeks and ended successfully. Given the information Mr R was able to send to VAM, I'm persuaded it acted fairly and reasonably based on what he had been able to provide. And the arguments he presented as to why he couldn't go so far back in time, to successfully complete its review. Nor do I think VAM caused any undue delay in its review.

#### Administration of SIPP payments

VAM has sent me its internal communication notes which show what was discussed between both parties. In summary, this is what I've seen happened in relation to the SIPP payments:

- 3 May 2023: After learning the review had completed, Mr R asked VAM if it would now be releasing his pension payment for April 2023 which it had previously blocked
- Mr R was told by VAM on the same day that his regular payments will restart in May 2023. And that he can request a single manual payment withdrawal to cover April's payment. Steps on how to do this were also sent to Mr R
- 4 May 2023: Mr R responded and said VAM blocked the April payment when it was due so it should release it. Mr R asked for this to be escalated. VAM appreciated that it had done this, but it needed Mr R to raise a single withdrawal request for it to be processed. VAM later agreed to look into doing this manually
- 25 May 2023: a one off payment of £625 had been set up on the account
- 26 May 2023: Mr R informed VAM his regular pension withdrawal for May appears to have been blocked and this was supposed to have been lifted although his SIPP has been unaffected by changes to investments or withdrawals. VAM later said it appears as if something has gone wrong with the regular withdrawal despite the restrictions being lifted and that it is being investigated
- 1 June 2023: Mr R said his pension payment for May had gone through that day. And he wanted an explanation why the April payment wasn't similarly put through when the restrictions were lifted

- 2 June 2023: VAM said the payment Mr R had received was the manual withdrawal that was requested for April's payment. VAM asked Mr R if he wanted it to still cover May's payment which would equally need to be done manually. The steps for Mr R to instruct this were once again set out
- Mr R replied that the April's payment took a while to come through. He also added that he wanted to leave the May payment as missed and resume as normal in June 2023

In its final response, VAM accepted it didn't remove the restrictions from Mr R's SIPP account correctly, which led to a monthly drawdown payment not being taken in May 2023. And that it didn't arrange for the one-off withdrawal to cover his April drawdown payment in a timely manner. Because of this VAM credited Mr R's external account with £75 for the trouble and upset its customer service failings caused.

Mr R was deprived of access to his payment for longer than he ought to. In instances like this our service would generally award 8% simple interest for the period someone was deprived access. We'd also consider what impact a businesses' failings had on the consumer. Mr R has said that £75 isn't sufficient compensation.

I accept that having to raise and pursue this matter would have caused Mr R some distress and inconvenience. But given what our guidance on awarding compensation says, which is available on our website, I'm persuaded £75 is fair compensation for the period Mr R was deprived of his funds and the distress and inconvenience VAM's failings and delays caused. So I don't think it needs to do anymore.

### Complaint handling

Mr R is unhappy with how long VAM took to respond to his complaint and that its Head of Personal Investor Services was unprofessional in not acknowledging or responding to him.

Around mid-April 2023, Mr R expressed dissatisfaction about its actions to VAM. A final response from VAM was sent on 14 June 2023. I'm satisfied VAM responded to Mr R in line with its required timescale.

Mr R says he emailed the Head of Personal Investor Services on 28 April 2023. On 2 May 2023, VAM's internal record of communication with Mr R shows he was told they had been made aware of this and his complaint handler will review this letter as part of the investigation into his previously made complaint. The complaint handler later reiterated this to Mr R.

It's not uncommon for a senior official at a business to delegate the investigation and response of a complaint addressed to them to one of its complaint handlers. And Mr R did get a response about his complaint, and that VAM had received the correspondence addressed to the Head of Personal Investor Services. So I don't find VAM did anything wrong here.

Lastly, and for the sake of completeness, I cannot consider any complaint points about how Mr R's wife's account(s) have been handled by VAM. That is a complaint for her to make.

### **My final decision**

For the reasons above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or



reject my decision before 21 May 2024.

Ketan Nagla  
**Ombudsman**