

The complaint

Mr and Mrs P complain about Citibank UK Limited's delay in acting on their instructions to transfer a portfolio of investments from Citibank Russia to Citibank UK. They say that by the time Citibank UK actioned the transfer, legislation in Russia prevented the transfer from going ahead and this has caused them considerable financial losses.

What happened

On or around 3 February 2022, Mr P requested to transfer his existing portfolio from a Citibank account in Russia, to Citibank UK. The portfolio included a number of assets and was worth around \$722,400.

During the month of February Mr P was reassured by a representative from Citibank UK that his transfer was being progressed:

'The transfer process has started' – 3 February 2022.

Mr P told Citibank UK that the transfer was already in process and he needed 'an order from London to accept the securities, I need to confirm by phone' – this was on 14 February 2022. Citibank UK told him that 'no further confirmation is required. We are working on the transfer'.

Mr P made some further enquiries and was told on 24 February 2022 that the transfer was 'Still in process. No need to worry. It's that kind of process. It may take a while. Next week if it's not completed, I'll be pushing through the management'. The same day Mr P asked 'can you please tell me where [the assets] are now [...]? Can I sell them?', to which Citibank UK replied 'why? Not worth selling amidst panic'.

On 25 February 2022 Mr P asked Citibank UK if it 'could [...] push it through the management and speed up the process'. Citibank UK replied on 28 February 2022 to say that 'I have made an enquiry. I am waiting for a reply from my colleagues'.

Some further messages ensued until finally on 23 March 2022 Mr P was told that Citibank UK was 'still waiting for the comments on the transfer from the Russian Citi. It seems to be delayed due to Euroclear restrictions'.

Unfortunately for Mr P, by this stage legislation had been introduced in Russia which meant additional restrictions were placed on transferring out of assets. Since then, he has been unable to access his portfolio or transfer it across. By April 2023, the value of his portfolio had dropped to around \$460,000.

Mr P complained about the delays to the transfer, but Citibank UK didn't agree it had done anything wrong. It said that Euroclear had imposed additional restrictions on the transfer that it couldn't comply with, and for that reason the transfer was unable to proceed until those restrictions were removed or Mr P received special authorisation from the relevant department for his transfer to proceed. Mr P remained unhappy and referred his complaint to this service.

One of our investigators looked into Mr P's complaint. In the course of his investigation, he identified a significant delay in Citibank UK processing the request to transfer. He concluded that Citibank had not actioned the transfer until 9 March 2022, over a month after Mr P had made the request. Unfortunately the restrictions were introduced on 5 March 2022, and so it was too late for Mr P's transfer to go ahead. He therefore upheld Mr P's complaint and awarded him compensation for the trouble and upset the delay had caused him and Mrs P. However, he did not consider he could conclude, on balance, that the transfer would've taken place before the restrictions were introduced.

Mr P disagreed and asked for an ombudsman to decide the matter. He felt the compensation awarded by the investigator was not enough and had no bearing on his actual losses, or the effect that Citibank's failings had on him and his wife. He also provided the messages he had with Citibank UK during the transfer.

Before reviewing this case, I asked Citibank UK to comment on the messages it sent Mr P during the transfer – particularly given the reassurance Mr P was consistently given, even though that reassurance was not accurate as the transfer was not, in fact, in progress. Citibank UK replied that the advisor in question had reassured Mr P in good faith because he believed the transfer was in progress. It said that the delays in ensuring the transfer was processed were due to a request to Mr P for more information, and a conflict in the region.

I issued a provisional decision in November 2023. In it I said:

'I consider that the investigator's award for £500 to Mr P and £500 to Mrs P does not fairly and reasonably compensate them. It's not in dispute that Citibank UK took too long to action the transfer – I'm satisfied that not doing anything with Mr P's request for over a month was not fair and reasonable. I've also seen insufficient evidence that there was any actual reason for the delay – I've not seen evidence that Mr P contributed to the delay at all, in fact the opposite, I've seen constant chasers from him. I've also not seen evidence that the conflict in the region had any impact given that Citibank UK told the service that it was not, in fact, seeing more requests in February 2022 that was the case in previous months.

Overall therefore, I'm satisfied Citibank UK has not treated Mr and Mrs P fairly.

However, putting things right in this case is not straightforward:

- Even if I considered that the delay ought to have been processed sooner, I'm aware from experience and industry good practice that it normally does take a few days before a transfer is initiated.*
- For an in-specie transfer of this type, the period of a month would also be typical, particularly as the assets were not listed on the UK stock exchange – even though the fact that it was going from one Citibank entity to another ought to have made the process more straightforward.*
- Citibank UK was not responsible for the restrictions being introduced, nor could it have done anything to avoid them. I'm not aware that it knew in advance that such restrictions were going to be introduced.*
- Mr P continues to own the assets in his portfolio. However, Citibank UK's delay has deprived him of the real and substantial chance that his portfolio could've been transferred to the UK before the restrictions were introduced on 5 March 2022. If this had happened, Mr P would be in control of those assets and in a position to mitigate the losses he has sustained on those assets since then.*

All this means that I don't agree it would be fair and reasonable to direct Citibank UK to take ownership of Mr P's portfolio and pay him what it was worth in February 2022, which is what Mr P has asked for. I say this because I'm not persuaded this is something I have the power to ask Citibank UK to do, bearing in mind the assets are in a foreign jurisdiction. But I also have to take into account the fact that Citibank UK was not the cause of transfer being blocked or not proceeding – that was down to legislative changes that it had no control over.

Given that this was an in-specie transfer, there would not normally be a financial loss of this nature due to a delay.

Furthermore, I'm not persuaded I can say on balance that the loss of value of the portfolio since February or March 2022 is down to the failed transfer. Mr P hasn't provided any evidence of what his intentions would've been with those securities had the transfer taken place, and I've not seen any evidence that the portfolio itself is frozen or unable to be sold down as cash. I do however accept that even if he could make changes to his portfolio, his investment opportunities would be limited while any cash remains in a balance held in a Russian account – and this would not have been the case had the portfolio been transferred before the restrictions were enacted. I can confirm I have taken this into account when developing my proposal below.

However, I do consider that Mr P has suffered a financial loss, in addition to the distress and inconvenience he has experienced, which I deal with below. In my view, in order to put things right, it's important that I take into account the impact Citibank UK's actions have had on Mr P, both financially and emotionally.

In my view, Citibank UK's delay in actioning his request without any particular reason or explanation has caused Mr P to be deprived of the ability to manage his portfolio and mitigate losses. I'm satisfied that whilst I can't say what Mr P would've done differently, I can say that on balance he would've made some changes to his portfolio – and this would most likely have been stock market based investments.

This means that I think Citibank UK ought to compare the performance of Mr P's portfolio, from the date it should've been transferred had everything been done correctly until the date of settlement, with a suitable benchmark.

I'm satisfied that the start date for the calculation ought to be 7 March 2022 – this is because Mr P's request was received on a Thursday, and I've allowed a few days for the request to be actioned. I've then considered a period of four weeks for the transfer to take place. Citibank UK needs to pay Mr P any difference between the performance of his portfolio and the benchmark between those dates.

I accept that Mr P continues not to have access to the portfolio given the restrictions. For the reasons I've explained, I'm not persuaded it would be fair and reasonable to create an ongoing liability on Citibank UK.

Instead I consider it fair and reasonable to provide some finality – by providing Mr P with a lump sum which he can use to mitigate any ongoing losses his inability to access his portfolio might cause him.

In relation to the benchmark, I've decided that none of the benchmarks the service routinely uses for compensating investment complaints would be appropriate.

Given the stocks in Mr P's portfolio I think a suitable benchmark would be the FTSE All World Index. This doesn't mean that I consider Mr P would have invested in the same investments that make up the index, but that I think given the type of investor Mr P was, and

the types of assets he held in his portfolio, the index provides a good indication of the type of return he likely would've been able to achieve had he been able to manage his portfolio during the period in question.

I'm also minded to direct Citibank UK to work with its Russian counterpart to ensure Mr P is able to make changes to his portfolio, so he has control of his assets until such time as he is able to access them or transfer them.

It's also clear to me that the matter has caused Mr and Mrs P significant distress and inconvenience, for which I don't agree £500 each is fair and reasonable. In my view, the following factors have all aggravated the distress suffered by Mr and Mrs P:

- *The request by Mr P to transfer his portfolio was actioned immediately by Citibank Russia, and well in advance of any relevant restrictions;*
- *He was consistently and persuasively reassured by Citibank UK that the transfer was in process and would take place 'soon' or 'in a few weeks', when in reality Citibank UK had not even actioned the request;*
- *The value of the portfolio was very significant and the uncertainty around when Mr and Mrs P might have access to it is exacerbating the distress they have already experienced through no fault of their own.*

Given these circumstances, I'm therefore satisfied that an award of £1,000 each for the distress and inconvenience they have experienced is fair and reasonable'.

Mr and Mrs P accepted my provisional decision and added they had now been told they could sell the portfolio but at significant discount – and that it would take about six months.

Citibank UK asked for some clarification over the calculation of loss – in particular around the dates when its calculation should start and run to. It considered that my award for £1,000 for Mr P and £1,000 Mrs P was too high given the circumstances. And it said that whilst it would do what it could to assist Mr P in the management of his portfolio with its Russian counterpart, it had no ability to influence decisions by Citi Russia, and as they were subject to Russian regulations and laws, any actions would need to be compliant with those. It said it would therefore 'support Mr P in changes he wishes to make to his portfolio in as much as the legal and regulatory framework of the UK allows and once Citi Russia provide us with the necessary instructions'.

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've reconsidered all the evidence, and I've come to the same conclusions. As neither party had any comments about my core findings about the delay, I confirm them as final here.

Putting things right

To clarify, I consider the impact on Mr P is his continued inability to manage his portfolio in a way that would've mitigated the financial loss to date. In considering fair and reasonable compensation, I considered it fair to assume a 4 week period for the transfer, which would start shortly after the transfer being requested.

The dates I've chosen for the calculation of compensation are reflective of the need to pick a date so that Citibank UK can properly calculate the fair value between a start date and an end date, which will be the date of settlement. They are not intended to represent actual dates when the transfer would've taken place. I cannot say precisely when the transfer ought to have taken place, other than to conclude, as I have done, that there was a real and substantial chance that the transfer would've taken place before the restrictions were introduced. However, when asking Citibank to calculate compensation, it's important that I do so fairly and reasonably, and without introducing the benefit of hindsight – this means having a reasonable basis for selecting a specific date.

Having taken into account Citibank's comments, I've decided that the start ought to be 4 March 2022. This is consistent with a period of just over four weeks from when Mr P requested the transfer – as his request was received on 3 February 2022. So I've allowed one day for that request to be actioned, which is what Mr P was also told at the time was happening. I've then considered a period of four weeks for the transfer to take place which gives 4 March 2022 as the start date for the calculation – i.e. the notional date when Mr P would've had control of his portfolio and would've been able to make changes to it. This is consistent with my core finding which is that Mr P's transfer, had it been actioned correctly, would've had a real and substantial chance of being completed before any restrictions were introduced. To be clear, I do not know the values of Mr P's portfolio on these dates and have not taken that into account when clarifying how the compensation should be calculated.

The end date for the calculation is the date of settlement – the date of settlement is the date when it calculates the compensation Mr P is due. This will be within 28 days after we tell it Mr P has accepted this final decision.

Citibank UK needs to pay Mr P any difference between the performance of his portfolio and the benchmark between those dates – the start date and the settlement date.

I've received no comments on the specific benchmark I provisionally selected – and so I confirm that as final. Given the stocks in Mr P's portfolio I think a suitable benchmark would be the FTSE All World Index. This doesn't mean that I consider Mr P would have invested in the same investments that make up the index, but that I think given the type of investor Mr P was, and the types of assets he held in his portfolio, the index provides a good indication of the type of return he likely would've been able to achieve had he been able to manage his portfolio during the period in question.

What must Citibank UK do?

- Therefore to compensate Mr and Mrs P, Citibank UK needs to compare the performance of Mr and Mrs P's portfolio with that of the benchmark I've noted above. It needs to pay the difference between the *fair value* and the *actual value* of the portfolio. If the *actual value* is greater than the *fair value*, no compensation is payable.

It should provide the details of the calculation to Mr and Mrs P.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")
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Mr P's portfolio that he requested to transfer	In force but inaccessible	FTSE All World Index	4 March 2022	Settlement date after this final decision
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Actual value

This means the actual amount paid from the investment at the end date – in Mr and Mrs P's case, this will be what the portfolio is worth on the date Citibank UK calculate the compensation payable.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

Any withdrawal from the portfolio should be deducted from the fair value calculation to the point it was actually paid, so it ceases to accrue any return in the calculation from that point on.

Mr P has said that he is now able to transfer his portfolio, subject to certain significant deductions, and a discount on the value. So I direct Citibank UK to work with its Russian counterpart, consistent with what it is able to do in line with relevant UK laws and regulations, and cognisant that it has no influence over Citibank Russia's decisions, to ensure Mr P is able to make changes to his portfolio, so he has control of his assets until such time as he is able to access them or transfer them, and to facilitate the eventual transfer or sale when Mr P is able to provide that instruction.

- Pay £1,000 each to Mr and Mrs P for the distress and inconvenience its actions has caused them.

Citibank UK has said that it considers my award of £1,000 each for Mr and Mrs P to be too high, but it has not addressed the key reasons I gave in my provisional decision for why I increased the award. These were that the following factors have all aggravated the distress suffered by Mr and Mrs P:

- The request by Mr P to transfer his portfolio was actioned immediately by Citibank Russia, and well in advance of any relevant restrictions;
- He was consistently and persuasively reassured by Citibank UK that the transfer was in process and would take place 'soon' or 'in a few weeks', when in reality Citibank UK had not even actioned the request;
- The value of the portfolio was very significant and the uncertainty around when Mr and Mrs P might have access to it is exacerbating the distress they have already experienced through no fault of their own.
- The full extent of their financial loss remains unknown – and Citibank UK's actions have, in part, contributed to this situation arising.

Given these circumstances, I remain satisfied that an award of £1,000 each for the distress and inconvenience they have experienced is fair and reasonable.

Mr and Mrs P have explained that it will now take some time for their portfolio to be sold, and this will likely exacerbate their losses. I'm unable to compensate for those losses, but my award above and compensation for the distress and inconvenience will go some way to allowing them to mitigate the circumstances that have occurred and the financial impact they will experience.

My final decision

My final decision is that I uphold Mr and Mrs P's complaint. Citibank UK Limited must pay the compensation I've awarded above within 28 days of when we tell it Mr and Mrs P have accepted this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 21 February 2024.

Alessandro Pulzone
Ombudsman