DRN-4728617

The complaint

Ms T complains that Singer Financial Trust provided her with unsuitable investment advice.

What happened

Ms T had an investment meeting with Singer in January 2001. The fact find which was completed at the time showed the following:

- Ms T had an income of £26,00 with a monthly expenditure of £950.
- Ms T owned her home valued at £600,000 with an outstanding buy-to-let mortgage of £107,000 with three years left on the current mortgage term.
- Ms T had an existing investment of in a cash ISA.
- Ms T was looking to invest these savings to achieve better capital growth, as well as taking an active role in the management of her investments along with Singer's financial advisor.
- Ms T was looking to invest for at least five years and her risk was recorded as being balanced.

Singer sent Ms T a recommendation letter in February 2021. In this, Singer recommended that she transfer £52,000 from existing cash ISA into a stocks and shares ISA. Singer also recommended that Ms T retain £3,000 for emergencies funds. The letter explained that Ms T planned to retire at 75 years of age, and this meant a move to investments carrying more risk exposure was required.

Ms T says she followed Singer's advice and invested around £64,000 in total in a balanced growth portfolio within an ISA wrapper.

In May 2022, Ms T was alarmed to see that her investment value had fallen substantially fallen. Ms T decided to withdraw her funds which she says had depleted to around £54,000 and deposited these back into a cash ISA.

Ms T complained to Singer in May 2022 as she unhappy that she'd received no communication from Singer regarding the fall in value and despite calling to express her concerns, no action was taken. She said she needed the funds to pay off her buy-to-let mortgage and the drop in value meant there was now a shortfall. She felt Singer should refund her losses and management fees.

Ms T didn't accept Singer's response and so she referred her complaint to this service for an independent review.

Having received the complaint, Singer offered to refund all its initial and ongoing fees as well pay Ms T an additional £500 in compensation. One of investigators put this offer to Ms T but she didn't accept it. So the investigator went on to consider the merits of the complaint. In summary, they said:

- Our service doesn't consider complaints about investment performance. Instead, we can look to see if an investment was suitable to the individual's situation and if the adviser handled matters as they should have.
- They appreciated why Ms T had concerns with the drop in value of her investments and why she decided to close her investment, however the investment was intended to run for more time to provide it with better chance of recovery.
- They were satisfied Singer had explained the impact of global events on market movements to her and they didn't feel it was necessary for Singer to react when the investment dropped in value.
- Ms T's investment was a balanced and not a cautious one – meaning it carried some risk.
- They had no concerns with Singer's assessment of Ms T's risk level and the advice to invest in the balanced growth portfolio.
- Whilst an outstanding mortgage is a significant factor when looking into investment advice, they were persuaded that Ms T had no immediate intention to use the funds to pay off her buy-to-let mortgage and that she was committed to investing for at least five years.
- They said the point of sale documents referred to her extending her mortgage term so although they appreciated the funds invested may one day have been used to par pay the mortgage, they weren't persuaded that Ms T intended use the funds when the current mortgage term ended in 2024.

Ms T didn't accept the investigator's findings. In summary, she said:

- The five-year investment term was as a result of Singer's assurance that it would facilitate the extension of her buy-to-let mortgage term and it was fully aware that it was due for repayment in May 2024.
- At no point did Singer review her situation and it seemed to be completely unaware what was happening, even when she brought her significant loss to its attention.

As Ms T remained unhappy, the complaint was passed to me to decide.

I issued my provisional findings in March 2024, explaining why I felt the complaint should be upheld. I include a copy of this below:

What I've provisionally 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 also want to assure both parties I've read and considered everything on the file. But I'm satisfied I don't need to comment on every point raised to reach what I consider to be a fair and reasonable decision. Where I've chosen not to comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. That approach is in line with the rules we operate under.

As the investigator explained, our service doesn't consider complaints about investment performance alone. Instead, I've focused on whether I think Singer gave Ms T suitable advice and whether it's offer is fair and reasonable on all the circumstances.

I can see that Singer conducted a comprehensive and detailed review of Ms T's circumstances and needs; in the manner I would expect a regulated adviser to do. Having reviewed this review, it's clear that Ms T was looking to achieve more capital growth than she currently was with her existing cash ISA. And in order to do so, she was happy to take some risk. The questions she completed indicated that she was a balanced investor, which Singer described as being:

> *"The Balanced investor may be somewhat concerned with short-term losses and may shift to a more stable option in the event of significant losses. The safeties of investment and return are typically of equal importance to the Balanced investor."*

In respect of the investment recommendation, I don't think this was suitable for Ms T given her appetite to risk being balanced. I say this as although Ms T chose to invest in the balanced portfolio, as opposed to the cautious one, I think Singer exposed her money to too much risk than had been agreed. Looking at the statement of assets for Ms T's ISA dated July to September 2021, her investment was made up of the following asset classes:

- *56.86% equities*
- *9.64% fixed interest*
- *33.5% other*

Ms T was willing to take a balanced risk and so having half of her money being exposed to equities, on the face of it, doesn't seem unsuitable. However, having looked at the fact sheets for the funds classified as "other", these funds also appear to be exposed to equities and include investments in niche areas such as digital and biotech companies. Whilst there may be a potential for strong growth in these areas, they also carry with them significant risk.

And so I don't think it could be argued that by exposing Ms T's investment to almost 90% equities was in line with her recorded appetite for risk. Singer's description above for the balanced investor suggests that it was aware that the safety of her investment and return were of equal importance to Ms T and I don't think this was suitably considered.

Furthermore, having also looked at the fact sheets for the fixed interest assets, I'm concerned to see that these were in emerging market and overseas bonds and not in more typically safer high-grade investment bonds.

Whilst I think the initial advice to invest in a balance portfolio was suitable, considering Ms T wanted to more growth than a no risk product would have likely achieved, I'm not persuaded that Singer has ensured that the asset allocation was in line with Ms T's risk appetite. As such I think the complaint should be upheld.

Ms T has explained in her response to the investigator's opinion that she always intended to extend her buy-to-let mortgage and so I'm satisfied that it wasn't her intention to use the invested funds to pay this off when her current term expired. As such, I have no concerns with the amount Singer recommended be invested and so my suggested settlement will only address the level of risk her investment was exposed to.

I also understand Ms T also has concerns about how Singer reacted to her concerns regarding her investment value depleting, however, I don't think this needs to be addressed as I intend to put Ms T back in the position she would have been in had she initially been given suitable advice. Also, any concerns regarding Singer's advice fees will be appropriately considered in the benchmark calculation given below and so this doesn't need to be directly addressed in my findings.

Finally, I acknowledge that Singer has made an offer of £500 for any distress and inconvenience caused to Ms T, which I think is fair and reasonable in all the circumstances.

Responses to my provisional findings

Ms T clarified that the mortgage is on her only residence not on a buy-to-let property and that she made it clear to Singer that the invested funds were required in May 2024 when her mortgage was due for full repayment.

Singer didn't accept my findings. In summary, it said:

- Ms T was a higher-risk investor.
- Her primary and stated aim was to repay her mortgage at maturity in October 2024 and that necessitated a higher-risk strategy due to the limited timeframe.
- She also had previous experience of investing in high-risk individual stocks and higher-risk collective investments.

As no agreement could be reached, the complaint has been passed back 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.

Whilst I appreciate Singer has provided information to demonstrate Ms T had some previous investment knowledge and experience, I'm not persuaded that she was a high-risk investor. I say this as the fact find clearly shows that she was willing to take some risk, but overall her target profile was defined as being "balanced". Whilst I accept Singer's point that Ms T had previously invested in some investments which carried risk, I don't think it follows that it was her intention to expose her invested funds with Singer to that same level of risk.

I understand Singer says that it was necessary to go with a higher-risk strategy due to the limited timeframe at play, as it says Ms T wanted to use the invested funds to pay off her mortgage. Having considered the fact find and suitability letter provided, I've not seen any mention of Ms T's intention being to fully pay off her outstanding mortgage with the investment returns. So I'm not persuaded by Singer's rationale for going for a higher-risk strategy than the balanced growth portfolio which was agreed upon in the suitability letter.

From Ms T's submissions, I think it's clear that Ms T hoped that the returns on her investment would help to contribute towards paying off her outstanding mortgage. However, she has also referenced extending the mortgage, so I'm satisfied that it wasn't her intention to use the invested funds to pay this off when her current term expired. Furthermore, I'm not convinced that Ms T would have been happy to expose her invested funds to such a high level of risk if, as Singer says, the funds were needed to pay off her outstanding mortgage.

In its response to my provisional findings, Singer has provided an email from Ms T to it, dated 6 April 2023. Singer says this email shows that Ms T felt she had a higher probability of achieving her aim of repaying her mortgage by October 2024 by engaging with Singer. Ms T says in the email:

> *"If you recall - your commitment to me was that you would always do better than an easy access low interest account . I stressed that I could not afford to lose a penny of my investment as it was to repay my mortgage next year."*

Whilst Ms T makes reference to wanting to use the funds to repay her mortgage, it doesn't support Singer's decision to expose Ms T to higher level of risk than the balanced strategy. I say this as Ms T says she wanted her investment to do better than an easy access low interest account, but she couldn't afford to lose money on her investment. I must consider that this email was sent some time after Ms T had completed the fact find which did say she was willing to take some risk and so I don't agree that it was her initial intention to not be exposed to any risk at all.

I understand Singer says it believes it unlikely that Ms T would have chosen an IFA to select cautious or defensive or balanced funds. But a balanced strategy was clearly agreed upon in all of the point of sale documentation, so I'm not persuaded by Singer's point here. As I mentioned in my provisional findings, I'm satisfied Ms T was willing to take some risk, as reflected in the answers she gave in the fact find. However, Singer has exposed her investment to almost 90% in equities, which I don't think reflects a balanced level of risk. It also isn't in line with the description Singer gave Ms T for a balanced investor. I understand Singer has also made the argument that Ms T never questioned the asset allocation and suggested she only complained when the investment made a loss. However, I'm not convinced that Ms T was fully aware of the extent to which she had been exposed to higher risk investments in her portfolio. Afterall, Ms T was told by Singer that she would be invested in a balanced risk portfolio and I've not been provided with anything from Singer to show that it made her aware that it had switched to what it considered to be a necessary higher-risk strategy.

So taking into account all the above, I'm still persuaded that the complaint should be upheld.

Putting things right

In assessing what would be fair compensation, I consider that my aim should be to put Ms T as close to the position she would probably now be in if she had not been given unsuitable advice.

What should Singer do?

To compensate Ms T fairly, Singer must:

- Compare the performance of Ms T's investment with that of the benchmark shown below and pay the difference between the fair value and the actual value of the investment.
- The actual value will include the advice fees Singer has offered to refund and so the benchmark calculation will consider these.
- If the actual value is greater than the fair value, no compensation in respect to investment loss is payable.
- If the actual value is less than the fair value, then compensation is payable in respect to investment loss.
- Singer should also add any interest set out below to the compensation payable.
- Singer should also pay £500 for the distress and inconvenience caused if this hasn't already been paid.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Balances growth portfolio	Surrendered	For half the investment: FTSE WMA Stock Market Income Total Return Index; for the other half: average rate from fixed rate bonds	Date of investment	Date surrendered	8% simple per year on any loss from the end date to the date of settlement

Actual value

This means the actual amount paid from the investment at the end date.

Fair value

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

To arrive at the fair value when using the fixed rate bonds as the benchmark, Singer should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any withdrawal, income or other payment out of the investment should be deducted from the fair value at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

If there are a large number of regular payments, to keep calculations simpler, I will accept if Singer totals all those payments and deducts that figure at the end instead of deducting periodically.

Why is this remedy suitable?

I have decided on this method of compensation because:

- Ms T wanted to generate more growth than she was with her cash ISA and was willing to take some risk in order to do so.
- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to their capital.
- The WMA index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Ms T's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put her into that position. It does not mean that Ms T would have invested 50% of her money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Ms T could have obtained from investments suited to her objective and risk attitude.
- The additional interest is for being deprived of the use of any compensation money since the end date.

My final decision

My final decision is that I uphold this complaint and I direct Singer Financial Trust to pay Ms T the compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 7 May 2024.

Ben Waites
Ombudsman