

The complaint

Mr K complains about AXA Investment Managers UK Ltd, referred to as “AXA”.

He’s unhappy about AXA’s decision to close the AXA Sterling Index Linked Bond Z Acc fund (*“the Fund”*) – without a feasible explanation or option to remain – which he says has resulted in a financial disadvantage to him, including a potential tax liability.

To put things right, he’d like compensation for losses claimed.

What happened

On 4 December 2023, AXA wrote to Mr K announcing it would be closing the Fund that he was invested in, mainly due to the lack of popularity with new investors. AXA felt that the Fund was becoming economically unviable with limited long-term prospects.

AXA gave Mr K three options. He could switch to another fund, sell his shares or hold his shares until closure on 22 February 2024 – it gave him roughly three months to decide. It also encouraged him to contact a financial adviser to discuss how this would impact him and discuss his options. AXA also made clear that there would be no cost if Mr K wanted to transfer his shares, and any future windfalls would be transferred by cheque.

AXA didn’t uphold the complaint. In a Final Response Letter (FRL) dated 3 January 2024, in brief, it said:

- It shares Mr K’s opinion that the fund has delivered a reasonable outcome for its investors over its life, so the decision to close it was a difficult one.
- The decision wasn’t prompted by, or a reaction to, the events of 2022 or market conditions.
- For a number of years, the fund hasn’t been attracting the investor interest that it had hoped for, even prior to the difficult conditions experienced in the last two years.
- The fund became too small to be run economically for the benefit of investors as the benefit that small investors receive from pooling and scaling of their investment with others diminishes as the fund reduces in size. It felt there was little prospect for the fund to grow.
- It confirmed that redemptions would continue to be processed in the normal way up until 12 pm on 22 February 2024, subject to dilution adjustment required to protect investors remaining in the fund to the date of closure.

Unhappy with AXA’s response, Mr K referred his complaint to our service.

One of our investigators considered the complaint but didn’t think it should be upheld. In summary, he said:

- AXA is entitled to make decisions that it feels is best for its business. If it deems one of the products it provides is no longer viable, it’s within its rights to remove the product for both itself and its customers.
- The key documentation provided made clear what it could and couldn’t do in relation

to fund closure. Page 50 of the Fund prospectus contains a section about winding up and closing the Fund. In this instance, AXA followed the procedures outlined in the prospectus and gained consent from the industry regulator, the Financial Conduct Authority (the FCA) to close the fund.

- Despite the impact the closure may have had on Mr K, AXA was entitled to do what was in the best interests of its business and customers.
- AXA also gave three months' notice of the account closing, which was a reasonable amount of time for Mr K to decide what to do, with (or without) the assistance of an adviser.
- Despite what Mr K says about his belief that the Fund has performed well in the past – and other agencies have shown market projections that contradict AXA's belief that the Fund needs to close – AXA has based its conclusion on multiple factors including whether (or not) it was attracting new customers for it to be commercially viable.
- Despite what Mr B says, he's not entitled to any compensation for distress and inconvenience in this case.

Mr K disagreed with the investigator's view and asked for an ombudsman's decision. In summary he made the following key points:

- The investigator misrepresented, diminished and trivialized his complaint by reducing it simply to his unhappiness about his Fund being closed, which detracts from the true nature of the complaint. It's not just that, it's also the way AXA failed to both fully consider and act in the best interests of its investors – specifically by ignoring the option to merge the fund with another suitable fund – which would've prevented *"the forced realization of losses and subsequent taxable events for investors"*.
- The investigator failed to address detailed complaint points, reducing it to simply that he was "unhappy" with the Fund closure, including (but not limited to):
 - AXA's failure to consider alternatives, such as merging the fund with another fund.
 - A lack of meaningful and transparent communication, especially behind the rationale for the closure.
 - The neglect of the longer-term impact on customers which can't have been in their best interests.
- The inappropriate characterisation of his complaint has cast him as an unreasonable and emotional complainer. He raised serious concerns about AXA's failure to act within its regulatory and consumer duties, and in his best interests.
- There's a lack of evidence regarding AXA's statements such as its decision to close the fund due to a fall in popularity with new customers. These are reasons, even if true, which don't qualify as a reason for fund closure under FCA guidelines, given the detrimental impact to investors. In other words, it can't be in the investor's "best" interests.
- AXA made unsupported and misleading statements without economic viability, without explaining to whom and why. Its responses are vague and lack the necessary detail to support its conclusion. The fund has solid long-term prospects. The investigator's view fails to understand the nature of the fund.
- AXA dismissed the viable option of merging with another fund. Its options ignored this which was the most effective and investor-friendly solution, which would've led to positive outcome for its customers. The investigator's failure to address this is a serious oversight – his view disregards the principles of fairness and duty of care owed to investors.
- The investigator misrepresented AXA's motives and failure to balance considerations of investor interests. The investigator's readiness to accept AXA's account demonstrates (without question) a bias towards the fund manager's concerns over fiduciary responsibilities owed to investors.

- AXA failed to consider and act to consider its obligations to act in the best interests of investors. AXA's unilateral decision making (as suggested by the investigator) disregards its obligation under the FCA guidelines to act in the best interest of its investors. FCA Principle 6 specially requires firms to pay due regard to their customers and treat them fairly. Fairness would've been to offer the option to merge with another fund.
- AXA can't be the sole arbiter of the Fund's viability. Even if the Fund was becoming unviable, AXA had an obligation to consider various options and not just its commercial interests.
- The options provided were unfair and inadequate. Not offering the option to merge is unfair and contrary FCA principle 7.
- Excluding the merger option with another fund is fundamentally unfair to investors and fails to meet the FCA's standard of fair treatment. In other words, it hasn't acted in the investor's best interests.
- AXA has given inadequate justification for the funds closure.
- The investigator has negated Mr K's legitimate claim for compensation, both for distress and inconvenience and financial and taxable loss. He wouldn't have suffered if AXA had allowed the merger with another fund.
- In conclusion, the investigator's investigation is *"fundamentally flawed, lacks adequate or appropriate knowledge or understating of the nature of the investment of the actual fund, it overlooks key regulatory obligations, fails to objectively assess AXA IM'S actions compared with their regulatory obligations towards investors, and accepts unsupported statements that contradict evidence, reason and common sense"*.

In an email dated 10 January 2025, Mr K provided evidence of another fund which AXA decided to merge rather than close. He says this proves that there are better solutions for existing investors than closure. He'd like this piece of evidence to be considered by an ombudsman.

As no agreement has been reached, the matter has been passed to me for review.

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 agree with the investigator's conclusion for much the same reasons, I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Mr K says, I'm unable to safely say that AXA behaved unreasonably such that this complaint should be upheld.

Before I explain why this is the case, I'd like to thank the parties for their considerable patience whilst this matter has awaited review by an ombudsman, due to the current demand for our service.

I also think it's important for me to note I very much recognise Mr K's strength of feeling about this matter. He has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mr K and AXA, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

It's not my role to critique Mr K's actions. For the record I don't think Mr K is an unreasonable or emotional complainer. He's entitled to complain about a business where he feels he has been treated unfairly, and my role (as explained above) is to consider whether, or not, the business has behaved unreasonably.

I don't uphold this complaint, in brief, for the following reasons:

- It seems to me that Mr K broadly understands what AXA has done, and why, but he doesn't agree with its reasoning and rationale – which he feels are inadequate and didn't include consideration of other options such as merging with another fund. Moreover, he's unhappy with the impact it might have on his financial situation. In the circumstances, and on balance, I can't agree with Mr K that the investigator has misrepresented or trivialised the complaint or hasn't addressed the pertinent complaint points.
- Despite what Mr K says, I don't think that AXA making a decision (that it's entitled to make) and providing an explanation (that Mr K doesn't agree with), means that it has behaved unreasonably, which is what's at the core of the complaint.
- As an independent financial institution, AXA made a business decision that it was entitled to make, from a range of options open to it. I note AXA says that the Fund suffered a significant annual net outflow over the past three years, which has contributed to the reduction in the size of the Fund, so it consequently determined that the Fund was no longer viable in the long term. Despite what Mr K says, I've seen no persuasive evidence that this wasn't the case.
- I note Mr K thinks that for example a surge in UK yields and resulting losses in 2022 *may* have promoted the decision to close the fund – but AXA (evidently) disagrees with this based on its explanation.
- On balance I don't think that Mr K is necessarily aware of all the considerations AXA would've taken into account in making its decision. Despite what he says, I also don't think it's obliged to share all its considerations, given the commercially sensitive nature of some of it. So, in the circumstances, and on balance, I can't blame AXA for not doing so.
- AXA wasn't required to consult Mr K, or any of its customers, before making its decision, so hasn't done anything wrong by not doing so. Its decision is also not subject to discussion or debate, by Mr K or any of its customers.
- In other words, I'm satisfied that neither Mr K nor any of its customers have the right to be involved in the decision made by AXA and seek to dissuade it from making a decision – or to reconsider its position – once it has been made. I'm aware that this is something that Mr K was very keen on happening, and that he is deeply unhappy that AXA didn't change its decision.
- Whether or not AXA provided Mr K with a comprehensive explanation and rationale (which I believe it has), it has no control over whether he's satisfied with the explanation, which I'm aware he isn't in this instance. In the circumstances, and on balance, I'm also satisfied that it has provided Mr K with a reasonable explanation for its decision.
- I'm mindful that AXA's decision to close the Fund was signed off by the Fund Depository (in this case a third-party multinational bank) and subsequently granted approval by the industry regulator, the FCA. So, despite what Mr K says, I'm not persuaded that AXA failed to properly consider, and act in the best interests of its investors by doing this rather than merging with another fund.
- In the circumstances, and on balance, I don't agree that AXA just made a unilateral

decision, without any checks and balances in place. It's not the sole arbiter of its decisions as such as its decisions are subject to some scrutiny.

- Despite what Mr K says, I don't think AXA only took into account its own interests, at the cost of its investors, because I think the two are somewhat connected. It's likely that AXA not only took into account its commercial interest but also the interests of its investors overall in terms of sustainability and long-term viability of the Fund through which it concluded it wasn't worth maintaining the Fund.
- Despite what Mr K says, I don't agree that just because the decision to close the Fund might have some financial impact on some customers means that this was contrary to regulation.
- In the circumstances I can't blame AXA for any impact the closure of the Fund might've had on Mr K, because I don't think it has done anything wrong by closing the Fund in the first place.
- I note that AXA communicated its decision to Mr K in good time before it closed the Fund, giving him options about what he might want to do as well as encouraging him to seek independent financial advice. In the circumstances, and on balance, I've seen no persuasive evidence that it has acted contrary to its regulatory duties or it has treated Mr K unfairly. Despite what he says, I think AXA gave him information that was clear, fair and not misleading.
- Despite what Mr K says, AXA's recent decision to merge a different fund, rather than to close it, isn't evidence that its decision to close the Fund is wrong. The two decisions are separate and based on separate considerations. In other words, AXA is entitled to decide what to do with its funds on a case-by-case basis.
- Despite what Mr K says, it seems likely AXA would've merged the Fund with another, if it thought it was a practical and viable thing to do

I appreciate that Mr K will be unhappy that I've reached the same conclusion as the investigator. But on the face of the available evidence, and on balance, despite what he says, I can't uphold this complaint and give him what he wants.

My final decision

For the reasons set out above, I don't uphold this complaint, and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 18 June 2025.

Dara Islam
Ombudsman