

## **The complaint**

Mr C complains that Northern Trust Global Services SE failed to meet its responsibilities as depositary of the Woodford Equity Income Fund (WEIF).

## **What happened**

Mr C invested just under £35,000 in the WEIF via his stocks and shares ISA, between October 2014 and December 2014. Mr C also held units in a multi-manager fund which itself had some exposure to the WEIF.

Mr C remained invested in the WEIF when it was suspended in June 2019. Shortly after its suspension, the Authorised Corporate Director (ACD) of the fund Link Fund Solutions decided that it wouldn't be reopened. As the fund's assets were sold, small payments were released to investors who had direct holdings in the WEIF at suspension – no other redemptions or other disposals of units in the WEIF were allowed.

In early 2024 a Scheme of Arrangement was agreed between investors and the ACD which allowed payments to be made to investors and the fund to be wound up. I understand some if not all of these payments have now been made – however these payments would only have covered Mr C's direct investment in the WEIF, not his investment in a fund that itself invested in it.

## Regulatory investigations

The Financial Conduct Authority (FCA) issued a Final Notice to Link on April 11, 2024. The notice required Link to pay restitution of £298,403,919 to the WEIF for the benefit of current unitholders. The FCA said this amount (which was the same amount as the Scheme of Arrangement above) reflected losses suffered due to Link not complying with the FCA's Principles for Businesses, specifically Principle 2 (skill, care, and diligence) and Principle 6 (fair treatment of customers).

The FCA found that Link failed to manage the liquidity of the WEIF appropriately, leading to its suspension in June 2019. This suspension prevented investors from redeeming their investments, resulting in significant losses. The FCA found that Link did not act with due skill, care, and diligence in its role as the ACD of the WEIF. Link's failure to manage liquidity and supervise the investment manager, Woodford Investment Management Limited, contributed to the fund's suspension. The FCA concluded that the suspension of the WEIF and subsequent liquidation meant that investors received significantly less than the value of their investments at the time of suspension. The FCA did not comment or make findings alluding to other potentially responsible parties (apart from Woodford himself) and so the role of the depositary, Northern Trust, was not examined.

## Background to the complaint

Mr C complained to Northern Trust in March 2024. In his complaint Mr C said he had only recently discovered the role that Northern Trust played in the management of the Woodford Fund – and he complained that in its capacity as depositary for the fund, Northern Trust had

“failed to exercise” its responsibilities, leading to significant financial losses to himself.

Mr C said that as the depositary, it was Northern Trust’s “responsibility to keep the authorised corporate director (ACD), Link, in check”. He said that the “fund governance handbook clearly states the depositary must ensure ACDs and fund managers are sticking to the rules in areas like unit pricing, dealing, borrowing restrictions and portfolio”. Mr C complained that Northern Trust had failed to do this. He complained that Northern Trust had also “failed to challenge the build-up of illiquid holdings in Woodford’s fund, which breached the 10 per cent limit on unquoted stocks and which at one point it reached 18 per cent”.

Mr C complained that Northern Trust had “failed to adequately oversee [Link] who were the authorised corporate director for Woodford Investment Management (WIM) and so negligently permitted a number of violations by Link and by WIM”.

Mr C said that his complaint was “not about investment loss caused by market movements or the underperformance of an agreed strategy

One of our investigators looked into Mr C’s complaint. He gave a detailed analysis and assessment, referencing the FCA’s Final Notice. In summary:

- Northern Trust identified breaches in WEIF’s exposure to unlisted assets and took steps to ensure compliance by liaising with Link and WIM. It encouraged actions to prevent future breaches and reported these to the FCA.
- Northern Trust attended meetings about WEIF’s liquidity profile. Link and WIM monitored liquidity daily, attributing issues partly to prolonged investor disinvestment. The FCA found that selling liquid assets to meet redemptions increased exposure to illiquid ones.
- The failure to adopt vertical slicing when meeting redemption requests exacerbated liquidity risks. Northern Trust’s remit did not include intervening in investment decisions.
- Northern Trust continued to ensure WEIF’s exposure to unquoted assets was appropriate. It noted no concerns about meeting redemption requests but did not discuss vertical slicing.
- Northern Trust’s oversight duties included ensuring Link and WIM monitored liquidity. It reviewed Link’s processes and was satisfied with the stress testing procedures in place.
- Northern Trust ensured Link had a rationale for using FVP. It relied on Link’s judgment regarding the valuation of illiquid assets and was not required to replicate stress testing.

The investigator also summarised the evidence provided to the service as part of his investigation:

- Evidence that Northern Trust examined the triggers for Link to review FVP and its ongoing oversight. Asset prices subject to FVP were reviewed every six months, regardless of the third-party company involved.

- The review was considered robust. The FCA did not find FVP use caused WEIF's collapse but noted it disguised liquidity deterioration. Northern Trust saw no increased risk from FVP use if stress testing was deemed adequate.
- From May 2018 to June 2019, Northern Trust continued addressing nominal breaches of holding limits. It participated in liquidity discussions but did not ask Link to revisit stress testing after April.
- WEIF's liquidity management was inconsistent. Link and WIM had differing views on liquidity limits and rebalancing needs. Link's analysis showed fluctuating liquidity assessments, with WIM disputing Link's findings.
- Northern Trust could have enhanced oversight by verifying stress testing applicability but guidelines did not specify how often it needed to carry out these checks. It likely would have received similar confirmations as in April.
- Northern Trust met its obligations as depositary. It ensured stress testing was in place and did not need to challenge FVP use or undertake independent analysis. Investment decisions were outside its remit.
- Northern Trust's responsibilities were limited to ensuring prescribed processes like stress testing were in place. It were not responsible for re-performing Link's role.

The investigator therefore concluded that Mr C's complaint about Northern Trust's actions shouldn't be upheld. He said the evidence showed that Northern Trust and Link had separate agreements for depositary and administration functions, and no evidence suggested this had contributed to WEIF's mismanagement. He said that Northern Trust had no role in stock selection or investment decisions, which were made by WIM – and that poor stock selection would have led to fund failure regardless of Northern Trust's actions.

In relation to illiquid assets, he said that WEIF had been an all-equity fund investing in emerging companies, and listing illiquid assets was not inconsistent with the rules or the Prospectus. Until June 2019, following the redemption request of a large institutional investor, Northern Trust had ensured the fund could meet redemption requests. But Northern Trust was not responsible for monitoring professional investor withdrawals or their reasons for withdrawing and had acted fairly and reasonably in attempting to ensure the fund's risks were managed.

The investigator acknowledged the impact of the suspension on Mr C's investment and the losses this consequently caused him, but he concluded that Northern Trust was not responsible for the fund's mismanagement. The investigator said the evidence showed Northern Trust had met its obligations with reasonable care and therefore had discharged its duties appropriately.

Mr C and Northern Trust provided comments in response to the assessment.

### Mr C's comments

Mr C provided detailed comments in response to the investigator's assessment. He confirmed that the loss of around £37,000 which he had claimed only related to his direct investment in the WEIF – and was quantified after the payments he'd received out of the WEIF (including capital distributions and Scheme of Arrangement payments).

Mr C said that the investigator had focused too much on the FCA's findings – he said the FCA were “widely discredited” and the Scheme of Arrangement was voted by “only a small minority of those eligible to vote”, yet the FCA “claimed it was a majority”. Mr C said that debates had been had in Parliament about the FCA's fitness for purpose and he provided links to a call for evidence on the FCA's performance.

Mr C didn't agree it was right to place any weight on the FCA's investigation and findings on Link's role in the collapse of the WEIF and said that the investigator had given Northern Trust too much leeway and the benefit of the doubt. He said the “overriding issue” was that Northern Trust had “failed to ensure that Link were doing their job” – he agreed it wasn't Northern Trust's role to do Link's job, but it had failed to monitor and oversee Link.

Mr C said that it was clear Northern Trust had failed in certain respects, including ensuring the liquidity stress testing was fit for purpose and, in particular, asking Link to revisit it after April 2018. Mr C said that the investigator acknowledged that Northern Trust didn't ask Link to do this because it had “satisfied itself” that stress testing was in place after April 2018 – but that wasn't good enough.

Mr C also didn't agree with the investor's conclusions about what he might've done had the fund not been suspended. He said it wasn't possible to know – but the point is he may have been able to sell his holdings and avoided some of his loss had the fund not been suspended.

Mr C said that the investigator had continued to rely on the “discredited FCA analysis to focus on liquidity and ignore the other responsibilities” of Northern Trust and other aspects of his complaint, as depositaries ensuring that ACDs and fund managers stick to the rules in relation to unit pricing, dealing and borrowing restrictions. He said Northern Trust had allowed Link to make “purportedly untruthful claims about the fund, misrepresenting WEIF as a relatively safe, low risk income fund, when this was clearly not the case”. He said this showed Northern Trust had failed to ensure the mandate was adhered to, including “inappropriate asset allocation, allowing over-investing in illiquid unregulated shares, early-stage business that consumer cash rather than pay dividends” and relying on “subjective valuation methods” for its holdings.

Mr C said that Northern Trust was responsible for ensuring that the ACD and fund manager carried out their functions correctly, truthfully and accurately but it didn't do this and should be held responsible.

#### Northern Trust's comments

Northern Trust agreed with the investigator's assessment. It said that Northern Trust met its regulatory duties and was not responsible for re-performing the role of Link. It argued that any different view would require expanding Northern Trust's regulatory duties or relying on hindsight, which it said wouldn't be fair and reasonable.

Northern Trust said it did not breach its oversight duties and it fully complied with legal and regulatory obligations. It said it was not responsible for any financial losses, loss of investment opportunities, or distress suffered by Mr C.

As agreement couldn't be reached, the case was 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.

I'd like to take this opportunity to confirm that I've read and considered all of Mr C's detailed submissions – including those during the investigation and in response to the investigator's assessment, which is what I've summarised above. The purpose of my decision is to focus on the key issues in the complaint and so this is what I've done.

In reviewing all the evidence available to me, including the investigator's detailed assessment of Mr C's complaint, I'm satisfied that it wouldn't be fair and reasonable to conclude that Northern Trust caused or contributed to Mr C's losses, or that it didn't comply with the relevant rules.

In the UK, the rules governing how depositaries discharged their functions in relation to a fund and an authorised corporate director (ACD) between 2014 and 2019 were primarily outlined in the FCA Handbook, specifically under the COLL (Collective Investment Schemes Sourcebook) and FUND (Investment Funds Sourcebook) sections.

The investigator has already quoted the relevant rules, so I won't replicate them here. But in short, Northern Trust was responsible for monitoring the fund's cash flows, ensuring the proper valuation of assets, and verifying that the fund's investments were in line with its stated objectives. It had to ensure the safekeeping of the fund's assets, which involved holding the assets in custody or verifying the ownership of assets held by third parties as well as monitoring the fund's cash flows, ensuring that all payments made by investors were received and that all cash transactions were accurately recorded.

However, the fund management and especially the stock selection aspects of the management of the fund were the ACD's responsibility.

I make this point early on because I think that most, if not all, of Mr C's comments are in fact about how the fund itself was managed and how good or poor the individual stock selections and market calls Woodford made were. But Northern Trust's role wasn't to second guess those calls or to question the specific stocks that Woodford was choosing to invest in. It monitored how consistent Woodford's strategy was in relation to the Prospectus, but it wasn't its role to step in and influence or shape the actual management of the fund – that was Link's role which it had delegated to Woodford. On this, I think it's important to say that I'm not persuaded the WEIF was ever described as a "low-risk" fund – I'm satisfied it was always clear that this was an equity fund which would also hold illiquid assets and where the manager had a broad discretion over what to invest in. Northern Trust monitored those investment decisions – but I've seen insufficient evidence that it had opportunities to identify investment decisions made by the ACD which were inconsistent with the WEIF's prospectus or mandate.

The evidence I've seen shows that Northern Trust was taking an active role in relation to its duties, reporting to the FCA the breaches it was aware of where necessary. I've seen evidence of certain breaches which Northern Trust picked up on, reported and monitored until remedial action was taken – and this information was shared with the regulator. This occurred in relation to minor administrative breaches as well as the few occasions when the fund held more than 10% in unlisted stock. It's clear to me that as part of discharging its role, it closely monitored what was happening in relation to the makeup of the fund, took action when certain parameters were breached and reported them appropriately.

Given that remedial action was taken on each occasion within a short period of time and that it closely engaged with the regulator, I'm not persuaded Northern Trust needed to do anything more than it did.

Understandably, one of Mr C's key concerns is liquidity management – but it's clear to me that here too, Northern Trust was doing what it was required to do.

It was stress testing the mechanisms Link had in place and insisting on regular updates and reporting. I've seen evidence of regular meetings at an appropriate level and the outcome of those meetings was shared with the regulator.

But I agree with the investigator that it wasn't Northern Trust's role to essentially re-perform the functions which were Link's responsibility. With hindsight it may be possible to identify areas where Northern Trust could've taken alternative actions – but that isn't my role. I'm not deciding the matter based on what I would've done as a depositary with the benefit of hindsight.

Instead, I'm considering whether Northern Trust's actions, at the time and in light of the rules and obligations it was required to follow, were fair and reasonable.

In relation to the liquidity of the WEIF, Northern Trust was there to ensure that a process was in place to monitor the fund's liquidity and take action where necessary or if it had concerns – but its role was necessarily one of oversight. And in my view, some of the issues that occurred within the WEIF were fundamentally related to Woodford's investment decisions and how poorly some of those decisions turned out to be. I'm not persuaded it would be fair and reasonable to be critical of the way Northern Trust discharged its role with the benefit of knowing the outcome of those investment decisions – information which Northern Trust did not have at the time.

On this note, I have taken into account the FCA's Final Notice against Link and the findings it made. I understand that Mr C does not give the FCA's report much weight and doesn't consider it persuasive. However, I'm satisfied that the FCA's view of what caused the suspension and liquidation of the WEIF is a relevant consideration and one that I ought to take account of.

The reason I consider it relevant is because in my view, it clearly identifies Link's lack of due skill, care, and diligence in managing the fund's liquidity and overseeing WIM. And it concluded that it was these failings that led to significant investor losses. Link's failure to manage liquidity appropriately, supervise the investment manager effectively, and ensure a prudent spread of risk was ultimately the reason why the fund failed and needed to be liquidated. I'm not persuaded, given the evidence available to me, that Northern Trust ought to be held "complicit" in these failings merely by virtue of its role as depositary – when it was in fact doing everything that was required of it in the circumstances and it had limited, if any, responsibility for the actions that led to the failings identified by the FCA.

The investigator obtained evidence of industry standards which showed that Northern Trust was discharging its role in line with those. Ultimately, Northern Trust's role included taking reasonable care that Link had procedures in place that were compliant with the applicable rules around liquidity management. This included ensuring that periodic monitoring was undertaken, which I can see Northern Trust had in place. The evidence suggests that it was not Northern Trust's responsibility to ensure that all checks undertaken by or on behalf of Link were compliant, but to ensure there were robust processes in place for those checks to be carried out appropriately. I agree this role needed to be more than merely perfunctory, but it did not extend to carrying out Link's responsibilities itself.

As part of the good practice outlined by the FCA from its liquidity monitoring visits, liquidity monitoring needed to be performed separately by the depositary – and I can see that Northern Trust did this.

I've given very careful consideration to Mr C's points, but I'm not persuaded there are areas where Northern Trust failed in its role. At the time the fund was being managed, Northern Trust was fulfilling the obligations imposed on it. It was testing Link's liquidity monitoring and requiring Link to periodically report to it. It was clearly engaging with the regulator where relevant and questioning key areas of the fund's management, for example around the valuation of less liquid assets and around breaches of fund limits.

I can see that it was also monitoring both the level of illiquid assets, as well as those that technically were not considered part of that cohort because they were due to be listed in the next 12 months (in other words, assets that did not technically make up the 10% limit on illiquid holdings, even though they were not yet listed). Here too, however, it was reliant on both WIM and Link in their assessment of the individual firms they were deciding to invest in and who were announcing their upcoming listing. This wasn't something Northern Trust was responsible for second guessing or carrying out due diligence on – that would've been reperforming Link's role. Fundamentally, it was Link's responsibility to ensure that WIM's investment decisions, particularly in relation to how it managed the illiquid part of the fund, were consistent with the mandate and reasonable – including having oversight of the due diligence WIM had done on individual firms.

I fully sympathise and understand Mr C's position and why he has made his complaint against Northern Trust.

But in the particular circumstances of this case, I'm satisfied that Northern Trust discharged its responsibilities as depositary and was not responsible for the WEIF's suspension and liquidation.

### **My final decision**

My decision is that I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 17 July 2025.

Alessandro Pulzone  
**Ombudsman**