

The complaint

Mr B says IG Index Limited ('IG') unlawfully withheld around £20,000 of his capital in trading accounts that were meant to have been closed in July 2020. He says he did not recover the sum until around a year later, and he claims for – loss of use of the capital (including for reinvestment), distress and inconvenience caused by the matter (and by his experiences in trying to resolve it), and personal financial loss arising from the time and effort he put into trying to resolve it.

IG disputes the complaint. It has also questioned why we are addressing it, on the grounds that Mr B previously pursued the same case in the courts, then withdrew it, in October 2021.

What happened

Mr B opened the following trading/investment accounts with IG in 2020 – an Individual Savings Account ('ISA'), a Contracts for Differences ('CFD') account, a share-dealing account and a spread-betting account.

An issue arose in May 2020 concerning charges, over which both parties disagreed. It appears that in early June 2020 they were in the region of settling the matter, then on 19 June 2020 IG issued Mr B with notice of suspension and closure of his accounts. The notice included –

“... we are also closing your spread betting account ... This means that the account will be terminated after 30 days ...”

“... please take this as written notice that we are suspending each of these accounts with immediate effect in accordance with the relevant Customer Agreement (see details below). Accordingly, all of these accounts will be set to the status of 'Closings Only'. As has been previously explained to you, this means that you will not be able to open new trades or positions on these accounts nor to increase your exposure under any existing trades. In addition to this, please take this as written notice that we are terminating each of these accounts in accordance with the relevant Customer Agreement (also see details below). This means that each of the accounts will be terminated after 30 days' of the date of this email. Please note in relation to your Share Dealing Account and ISA that you will have 90 days from the date of termination to either sell or transfer the shares to another provider.

The affected accounts are:

- *CFD Account ...*
- *Share Dealing Account ...*
- *ISA ...”*

Further correspondence between the parties in July 2020 included –

- A reminder of the account closures, sent by IG to Mr B on 13 July. He responded on the same day and said;

“... I note the following:

- Account closure of CFD Dealing ... No open positons [sic] accepted*
- Account ISA ... Would you please facilitate transfer to hargreaves lansdown ...*
- Share delaing [sic] Account ... Would you please facilitate transfer to hargreaves lansdown ...*

My Spread Bet Account will remain open with close only on all positions, no new trades or positions to be opened.”

- IG clarified the following on 16 July;

“With regard to your ISA and share dealing accounts, I have spoken to our corporate actions team who will handle these transfers. They have informed me that we do not yet have a request from Hargreaves Lansdown. In order to facilitate these transfers, Hargreaves Lansdown will need to get in contact with IG. Please can you liaise with Hargreaves Lansdown to ensure that they do this on your behalf.”

“In relation to your spread betting account ... you have also been sent written notice of the termination of that Account. This Account will be closed in 7 days on Thursday, 23 July 2020. Please treat this email as a reminder of that closure. Until then you may operate the Account under the previously explained restrictions. Please note that this Account has open positions and that these should be closed out on or before 23 July 2020. Any positions left open at the end of 23 July 2020 are liable to be closed at IG’s discretion during market hours on 24 July 2020.”

Correspondence between the parties continued into late July, including some disagreement about how a particular open trade (with two sides to it) could and could not be closed. IG’s email to Mr B on 23 July addressed the matter, and concluded with –

“Please close any outstanding open positions during the course of today. Should you not take action to close these positions yourself, we will close them tomorrow. This has been explained to you a number of times now.”

Mr B’s responses, on 23 and 25 July, continued to contest the matter and the spread-betting account closure, including reference to legal action to obtain an injunction against the closure.

In September 2020 IG received requests, from Hargreaves Lansdown, for the transfers of the ISA and share-dealing account. The ISA transfer was concluded in October 2020. IG has explained that it and Hargreaves Lansdown agreed, in December 2020, to terminate the transfer of the share-dealing account because Mr B had not responded to transfer related enquiries put to him. The account remained with IG until its remaining holdings were liquidated in October 2021 (after which Mr B withdrew the associated liquidation proceeds).

We have a copy of a County Court claim form dated 4 October 2021 and executed by Mr B, in which he pursued legal action on his allegation that IG had unlawfully withheld £20,000 of his funds from around June/July 2020 and until May 2021. IG confirms this was withdrawn the following day (on 5 October 2021).

One of our investigators explained to IG that our jurisdiction to address the complaint is unaffected by the County Court claim because it was withdrawn and it was not subject to a judgment by the Court.

Another investigator looked into the merits of the complaint and concluded that it is not upheld.

She mainly highlighted that there is evidence of account statements (including a closure statement) sent to Mr B throughout the relevant period informing him of the funds he had in the accounts, that both parties were also engaged in ongoing correspondence at the time, and there is no evidence that he was prevented from withdrawing those funds earlier than he did.

The investigator also noted that the accounts were held in an execution only service, so IG was not obliged to guide him on the use of funds within them; that he was aware of his open trades at the time so he ought to have been equally aware they would create a balance in the account once closed; and that IG could not reasonably have been expected to remit any balance from the account without Mr B's instruction to do so.

Mr B disagreed with this outcome and asked for an Ombudsman's decision.

His submissions for the Ombudsman mainly said –

- The matter rests on IG's serious breaches of the regulator's rules – client money rules (protecting money held on behalf of a customer) and basic principles of fair and transparent business practices.
- IG should be obliged to refer itself and its wrongdoings to the regulator, but instead it has exploited and abused the power imbalance between itself (a firm with considerable size and resources) and him (an individual retail client).
- IG committed an unauthorised retention of his capital after purporting to close his accounts, and in doing so it failed in its obligation to monitor and safeguard its client's funds (his funds).
- As part of its failure, it did not proactively notify or guide him about the retained capital and the statements it issued did not substitute for such notification or guidance. Those statements are not evidence that he was informed about the retained cash.
- The process IG applied to closing his accounts was mismanaged.
- Overall, there should be – a thorough investigation of his case by the regulator (including a review of IG's client money handling procedures); appropriate disciplinary action against IG; and proper compensation to him for his financial loss and for the distress and inconvenience he has been caused.
- Furthermore, there is evidence that IG is using, and abusing, separate legal proceedings to victimize him in retaliation for his pursuit of the complaint through our service.

The matter was referred to an Ombudsman.

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 have reached the same conclusion expressed by the second investigator, for broadly the same reasons she gave. I do not uphold Mr B's complaint.

Dismissal

First, I would like to briefly address any concern IG might still have about our consideration of the complaint, despite the County Court claim Mr B initiated on the same complaint issue in 2021. The first investigator already addressed this appropriately, but I consider it important to deal with it too.

As both parties are aware, the Financial Conduct Authority ('FCA') is the industry regulator. The rules about our jurisdiction and case handling process are set out in the Dispute Resolution ('DISP') section of the FCA's Handbook. DISP 3.3.4A R says as follows:

"The Ombudsman may dismiss a complaint referred to the Financial Ombudsman Service on or after 9 July 2015 without considering its merits if the Ombudsman considers that: ...

(3) the subject matter of the complaint has been the subject of court proceedings where there has been a decision on the merits; or

(4) the subject matter of the complaint is the subject of current court proceedings ..."

[my emphasis]

As both parties are also aware, the claim Mr B submitted into the County Court in 2021 was very quickly withdrawn. Therefore, it was concluded by its withdrawal, and there was never a decision made by the Court on its merits. As far as we have been informed, there is no current court proceedings in the matter that has been referred to us.

For the above reasons, we do not have grounds to consider dismissing Mr B's complaint in relation to the previous County Court claim.

Merits

It is worth observing that the wider dispute between Mr B and IG relates to the closure of his accounts and to his unauthorised capital retention allegation. The former is not a part of the complaint referred to us. If it was it would probably be dismissed on the grounds set out above, because there is evidence that he pursued a separate County Court claim related to the closure of his accounts, and that there was a Court decision on the merits of that claim.

I mention both aspects of the wider dispute because I consider that the account closures appear to retain some influence in Mr B's approach towards his complaint about the capital retention allegation. This is evident in his submissions, as summarised above, one of which alleges that the account closures were mismanaged. My reading of his requests for a regulatory investigation and regulatory punishment of IG (and his expectation that it should have referred itself to the FCA) also suggests he wants his entire dispute with IG (including the account closures) subjected to these steps.

I make no findings on the closures of Mr B's accounts. It is not a matter within the present complaint. As he is aware, our service is not the industry regulator, so we cannot address the investigation and disciplinary action, by the regulator, that he has asked for. For the reasons I explain below, I do not uphold his complaint. This means that I do not have

grounds to consider his claim for compensation – I cannot award compensation in the complaint where I have not found merit in the complaint.

I have read the information he has sent us to support his belief that IG is victimising him for pursuing the complaint within our service. My remit is limited to addressing the complaint. If he considers that IG is presently committing misconduct, or has committed misconduct, in the form of the victimisation he refers to, and if he believes IG should be held accountable in this respect, that is a matter he can consider presenting to the regulator (to whom IG is accountable).

In my view, the above matters potentially stood to interfere, unduly, with my treatment of the main and only complaint issue – the alleged unauthorised retention of Mr B's capital – which is why I have dealt with them first. Having done so, I now move to the complaint issue.

IG's responsibilities to keep Mr B's assets in his IG accounts (including cash) safe and accessible, to ensure they are not misused, and to ensure his legal and/or beneficial ownership of those assets is not undermined or compromised in any unlawful or unauthorised way is not in dispute. The regulatory foundation for this overall responsibility is in the FCA's Principles for Businesses, at Principle 10 (Client Assets), which says "*A firm must arrange adequate protection for clients' assets when it is responsible for them*". This Principle is also cited within guidance for the *Client Money Rules* at CASS 7.10.41 G of the FCA's Handbook.

I have seen nothing from IG that says or suggests it disagrees with any of this.

These regulatory client money rules are somewhat extensive, addressing a number of different aspects relevant to client money. The 'Organisation Requirements' in CASS 7.12.1 R and CASS 7.12.2 R broadly convey what I summarised above about safeguarding assets, and they confirm the need for firms to have organisational arrangements to do so. Again, this is not disputed in the complaint.

There are other parts of the client money rules (for instance, the rules on segregation of client money and the rules on records, accounts and reconciliations) that I could refer to, but I am not persuaded that doing so will add any value to this decision. Firstly, as I said above, IG's responsibility under the rules is not in dispute. Secondly, IG will be familiar with the rules, and I have seen enough from Mr B's representations to suggest, if not confirm, that he too is familiar with the rules in as far as they are relevant to his complaint. Thirdly, what I have set out above is enough for the complaint, I have not seen reason to go into other elements of the client money rules, nothing appears to have been done to Mr B's capital that requires referencing other parts of the rules beyond what I have done above.

Furthermore, and as evidence of IG acknowledging its regulatory client money responsibility, in the course of explaining (in its complaint response) events concerning the shared-dealing account that relates to the complaint, it quoted the following from its client agreement –

"13. CLIENT MONEY AND CLIENT ASSETS

CLIENT MONEY

- (1) *We will act as custodian in respect of client money received from you. We will treat money received from you or held by us on your behalf (which includes your money held pending investment in Instruments and the proceeds and income from such Instruments pending distribution to you or reinvestment) in accordance with the Client Money Rules.*

CLIENTASSETS

(11) You instruct us to hold any Instrument bought on your behalf until we receive further instruction from you to sell that Instrument or transfer it into your own name or to another nominee. We will act as custodian and will hold Instruments on your behalf in accordance with the FCAs Client Assets Rules."

In simple terms, the cash holding that Mr B has complained about resulted from liquidated trading positions, it sat in his share-dealing account thereafter, and then it was eventually withdrawn.

Like the investigator said, there is no evidence that its withdrawal was ever hindered or restricted in any way, so there is no evidence that the money was inaccessible. Its safety was not breached. It was in place and available to be withdrawn when Mr B eventually withdrew it. I have not seen evidence that the cash was misappropriated or misused between the liquidation(s) and the withdrawal, and I have not seen evidence that his ownership of the cash faced a threat during this period.

In addition, there is ample evidence that from the June 2020 suspension/closure notice onwards, until all withdrawals were made from his IG accounts, Mr B was in a constant and ongoing state of awareness about those accounts. There is evidence of monthly statements for each account sent to him within this period. There is also evidence, from within the same period, of his continuing engagements with IG (at its account services level, to its legal team and up to its Chief Executive level) about matters related to his accounts and the trades within them. As the investigator said, he knew about the trades within them. IG's service was provided on an execution only basis, so Mr B would have retained responsibility to monitor and manage his own trading, and there is evidence of him doing so.

In other words, he would have known that the relevant open trades would produce a cash balance in the account when closed; and the circumstances were such that IG and the accounts had his ongoing attention during the relevant period.

The sum of the above means the awareness and opportunity that correlated with Mr B's ability to withdraw the capital (when it became available) appears to have existed through the relevant period.

Overall and on balance I do not find support for Mr B's claim that IG withheld his money unlawfully and/or in an unauthorised manner, or ground to find that it committed any wrongdoing around the circumstances in which he eventually made the withdrawal.

My final decision

For the reasons given above, I do not uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 August 2025.

Roy Kuku
Ombudsman