DRN-5166553

The complaint

Mr and Mrs N complain that Close Asset Management Limited trading as Close Brothers Asset Management failed to fully inform them about the charges relating to their investments.

What happened

The background to and circumstances of the complaint will be well known to both parties, so I won't go over them again in detail here. For clarity, I should also highlight that this decision concerns only Mr and Mrs N's investment accounts held with Close Brothers. A similar complaint regarding Mr N's pension portfolio has been made and considered by this service under a separate reference.

The investment accounts in question have been managed on a discretionary basis by Close Brothers since 2007. Mr and Mrs N's complaint arises from them becoming aware much later, in 2023, of product and transactional costs deducted from the investments over the entire period. They're also unhappy that VAT has been applied to the related service charges. They say Close Brothers failed to make them aware of all these costs and the significant impact they would have on the investments.

Close Brothers didn't uphold Mr and Mrs N's complaint. It explained that it only became a requirement to report the product and transactional costs directly to customers in 2018, following the introduction of MiFID II legislation, the revision of the original Markets in Financial Instruments Directive (MiFID).

Close Brothers said that it had written to customers in December 2017 to explain what would be happening in this respect, specifically that a full breakdown of charges would be provided in future, which was done for Mr and Mrs N in their quarterly investment reports from 2018 onwards. Close Brothers also explained that all the reports since 2007 had shown that VAT had been added the services charges, as it should have been.

Mr and Mrs N referred their complaint to this service, but our investigator also concluded that it shouldn't be upheld, for broadly the same reasons as those given by Close Brothers.

The investigator first clarified that our rules regarding jurisdiction meant we were only able to consider the charges applied to the investments during the six years prior to when Mr and Mrs N made their complaint in 2023. She then went on to confirm that in any event she felt Close Brothers had complied with the relevant guidance and the requirements. She said that from 2018 it provided a breakdown of the costs and charges associated with the investments and set them out in a way that was clear, fair, and not misleading. This also applied to the charging of VAT on the service charges since the outset.

Mr and Mrs N didn't accept the investigator's opinion. They reiterated their concerns at not having been made aware of the product and transactional costs and questioned in particular Close Brothers' claim that they had been informed of the MiFID changes in December 2017. They said they hadn't received the letter that Close Brothers said it had sent to them and felt that the fact that the letter hadn't been referred to in Close Brothers' initial response to the

complaint suggested it may have been fabricated later to support Close Brothers' position as set out in its final response.

Despite Mr and Mrs N's further comments the investigator wasn't persuaded to change her opinion, so the matter was referred to me to 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, there's little I can add to what's already been said. I also don't think the complaint should be upheld.

I won't comment further on the jurisdiction issue as it seems accepted that we can only look at the more recently applied costs.

In respect of the merits of the complaint, I'm satisfied there was no requirement for Close Brothers, or indeed any other financial service provider, to set out the product and transactional costs prior to 2018. The costs in question were always applied, but the changes prompted by the implementation of MiFID II meant they had to be detailed in a more transparent manner. While it may be of little consolation, Mr and Mrs N wouldn't have been able to invest in the way they did without incurring the costs. The new transparency simply meant that comparisons between providers and funds might be clearer and more meaningful. But these types of costs are, and always have been, integral to investing in this way.

Regarding the letter of December 2017, I don't find anything untoward in the way Close Brothers explained this. It seems entirely plausible that a generic letter would've been sent to its client base and with that type of communication I wouldn't expect an individually addressed record or copy to have been retained. The fact that Close Brothers has evidenced it having been sent by way of a copy template with no headers or other identifying features is not unusual.

Further, while I accept the December 2017 letter wasn't mentioned in the initial email to Mr N of July 2023, the email said, "We first provided the C&C schedule at the end of Q1 2019 as a result of the MiFID II methodology prescribed by an EU Directive, to which I made reference in my quarterly letter to you at that time." To my mind the email was simply explaining that the first time cost information *specific to Mr and Mrs N's investments* was sent was at the end of quarter 1 2019. It doesn't imply that there'd not been generic information sent earlier – which, as I say, I think there was.

In short, I find I'm satisfied that Close Brothers fulfilled all its requirements regarding the communication of the costs of investing and did so in a manner that was clear, fair and not misleading. I note Mr and Mrs N's additional concerns that they weren't informed how to access the information from the client portal, but I don't think it was incumbent upon Close Brothers to actively confirm that they were able to do so. I've not seen that Mr and Mrs N raised an issue of not being able to utilise the portal for this purpose to which Close Brothers failed to respond.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to

accept or reject my decision before 17 January 2025.

James Harris
Ombudsman