

## The complaint

Mr T complains that Investec Wealth & Investment Limited (“Investec”) didn’t give him sufficient time to decide whether to consent to his corporate ISA being moved to another investment manager.

## What happened

Mr T initially opened a corporate ISA with Investec in 2005. In September 2023, Investec became part of the Rathbones Group Plc (“Rathbones”) and shortly after, the decision was made to move Investec’s clients over to Rathbones Investment Management Limited (“RIM”).

On 7 August 2024, Rathbones sent Mr T a corporate ISA consent pack explaining that his corporate ISA would be managed by RIM and asking him to either consent to the transfer or to confirm that he would transfer his investment to another investment manager or liquidate his portfolio. The FAQs included in the pack gave him a deadline of 27 September 2024 to make his decision.

Mr T complained to Investec in August 2024, having received the consent pack. He said he wasn’t given sufficient time to consider his options as he was out of the country for some time during the seven-week timeframe given. He also couldn’t place trades until providing consent and during this time there was a dip in the market. He decided not to provide consent and requested a transfer out on 24 September 2024.

Investec explained that it was responsible for Mr T’s complaint and having considered it, it didn’t think it had acted unfairly. In summary, it said:

- It has a regulatory obligation to obtain his consent before moving his investment and money to RIM and it is necessary from a legal and regulatory perspective for RIM to have a signed client agreement in place with Mr T.
- The consent pack was designed to ensure these requirements were met, whilst minimising disruption to the service that he received and imposing the least amount of inconvenience.
- Given that obtaining client consent is a mandatory requirement, the alternative option would have been to close Mr T’s account and to undergo a client onboarding process with RIM. This would have required him to review a greater volume of literature as RIM would have had to obtain a new client agreement, carry out anti-money laundering checks and obtain fresh information from Mr T regarding his personal and financial details.
- Whilst it appreciates there was a significant volume of information to digest prior to deciding, it felt it was essential that it provided Mr T with all relevant information to support him in making a decision on a fully informed basis.
- It felt that the seven-week timeframe provided was sufficient time for Mr T to review the documentation and to engage in any discussions with it if required.

Mr T remained unhappy and so he referred his complaint to this service for an independent review.

One of our investigators considered the complaint but didn't uphold it. In summary, they said:

- They had reviewed Investec's terms and conditions for the corporate ISA and noted that there was no specific term for this specific scenario. But explained that there is term about what would happen if the agreement was terminated which explained that Investec would give investors 30 days written notice of a termination of the agreement.
- They considered the timeframe given to Mr T to be sufficient and longer than the 30 days' timeframe for termination.
- They noted Mr T was able to make the decision to transfer his ISA out within the required timeframe and didn't incur any transfer charges.

Mr T didn't accept the investigator's findings and provided further comments. In summary, he said:

- He felt Rathbones was responsible for his complaint.
- He didn't receive the consent pack until seven days after it was sent and was out of the country for four weeks during the seven-week timeframe for responding.
- He felt the investigator had failed to take into account his age (78) and felt that he had been unduly pressured into transferring out his corporate ISA.

The investigator considered Mr T's further comments but didn't change their view on his complaint. In summary, they said:

- Investec is the correct respondent for the complaint. The final response letter came from Investec and explained it is a subsidiary of the Rathbones Group. Whilst a business can be part of a group, each subsidiary would be responsible for its own complaints. Rathbone has confirmed that Investec is responsible for the complaint.
- Our service can't make biases about a consumer due to their age, as this alone wouldn't indicate that Mr T was unable to make financial decisions. But asked Mr T to let them know if there was anything that he felt impacted his ability to make financial decisions.
- Mr T had confirmed that he was out of the country between 27 August to 9 September and 24 September to 10 October (totalling 17 days between 7 August and 27 September 2024).
- They didn't consider this to be so long that Mr T wouldn't have been able to make this decision and that he was aware before he went away that he had a decision to make.

Mr T remained unhappy. He explained that he's become seriously ill and says Investec's actions have contributed to his decline in health. As such, his complaint has been 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'm sorry to hear about Mr T's health condition and I acknowledge that he feels Investec's actions have contributed to this. But having considered everything, I'm satisfied Investec has acted fairly. I'll explain why.

Firstly, I'm satisfied the complaint has been correctly set up against Investec and that it is the relevant respondent. This has been confirmed by Rathbones and I note that whilst the

consent pack was provided by Rathbones, Mr T's corporate ISA remained with Investec as he transferred without consenting to it being transferred.

The Financial Conduct Authority's Client Assets Sourcebook ("CASS") are a set of regulations that financial firms in the UK, such as Investec, must follow to safeguard client money and assets. CASS 7.11.41G specifically addresses the transfer of client money as part of a transfer of business, which would apply to Mr T's complaint circumstances. This says:

*"A firm may transfer client money to a third party as part of transferring all or part of its business if, in respect of each client with an interest in the client money that is sought to be transferred, it:*

*(1) obtains the consent or instruction of that client at the time of the transfer of business"*

So I'm satisfied that Investec was required to obtain Mr T's consent before transferring his corporate ISA to RIM and, in doing so, was adhering to its regulatory responsibilities.

I understand Mr T feels that Investec didn't give him enough time to make an informed decision, due to the amount of information provided to him in the consent pack and also because he was out of the country for some time during the seven-week timeframe provided.

I appreciate Mr T considers the level of information was too detailed for him to consider in the timeframe provided. Whilst I appreciate a lot of information was provided, I have to consider that Investec was required to provide sufficient information to enable Mr T to make an informed decision.

Furthermore, I've considered that Mr T was out of the country for 17 days during the seven-week timeframe, however, I'm satisfied the amount of time provided by Investec was reasonable for him to make his decision. I think it's important to note that Mr T received the consent pack before he was out of the country, albeit he didn't receive until a week after Investec had sent it, and so I'm persuaded he was aware of when he had to make a decision before he left the country. As such, I think it's reasonable that, despite being out of the country, he could still have considered his options whilst he was away and made a decision before the deadline provided.

I understand that Mr T says he was unable to trade during this period and that the market experienced a dip. Whilst I've not seen any evidence to support what Mr T's investment intentions were during this time, I'm satisfied that he could have mitigated any potential loss by making his decision on whether to consent or not sooner if he wouldn't to avoid any loss of investment during this time.

I also note that Mr T feels our service hasn't considered his age when deciding whether Investec has put undue pressure on him to make his decision. Despite the investigator inviting Mr T to provide information to show how his circumstances impacted his ability to make a decision, no further information has been provided for me to consider. As such, I'm not persuaded Mr T's age had any bearing on his ability to make an informed decision.

Taking into account all of the above, I'm not persuaded that Investec placed undue pressure on Mr T to make a decision as to whether to transfer his corporate ISA to RIM.

## **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 16 April 2025.

Ben Waites  
**Ombudsman**