DRN-5594620

The complaint

Mr M complains about delays caused by Investment Funds Direct Limited (IFDL) when he was transferring his Self-Invested Personal Pension (SIPP) from his existing SIPP provider to another provider.

What happened

Mr M held a SIPP with a provider I'll refer to as O. The Scheme Trustee held the assets in trust for Mr M. Mr M had a third party product account with IFDL and the scheme assets were held on its investment platform.

In February 2024 Mr M completed the necessary paperwork to transfer his SIPP from O to another provider. He requested an in-specie transfer. He says the process wasn't completed until July 2024. He had to contact IFDL and O on several occasions to try to get the matter progressed. He says that as a result of the delays he's lost out on investment growth and had to continue to pay fees that he shouldn't have had to pay. He also complained he'd lost out because part of his investment was liquidated in May 2024 and the funds weren't transferred to his new provider until July 2024. He complained to IFDL about what had happened.

IFDL investigated his complaint. It said it had received a request from the receiving scheme on 21 March 2024, in respect of Mr M's transfer. It acknowledged that due to an error in "its case allocation process" it hadn't started working on the case at that time. It also acknowledged it had received several chasers from the receiving scheme but hadn't picked these up. The valuations hadn't been issued until 15 May 2024.

After that date there'd been ongoing discussions around the transfer of the scheme assets. One asset was suspended and could not be transferred and two of the assets were not accepted by the receiving scheme and had to be sold and transferred as cash. The remaining assets were transferred in-specie. IFDL said it had received authority from the Scheme Trustee to proceed with the transfer on 5 July 2024 and all of the holdings were re-registered to the new SIPP account on 12 July 2024. The cash was transferred on 16 July 2024.

IFDL said its service had fallen far short of expectations especially in the initial part of the process. It said it should have actioned the request dated 21 March 2024 within three business days. It said that if it had done that the two assets which had to be sold and transferred as cash could have been sold on 29 March 2024 (assuming the receiving scheme had responded within three business days). IFDL compared the value of the two assets on 29 March 2024 against the value it had obtained at the later date of 21 May 2024. It said that the value at 29 March was lower. So, it said Mr M hadn't suffered any financial loss because of what happened.

IFDL did agree it had contributed to the delays. It refunded its platform charges for May and June 2024 (being £603.38) and transferred this amount to Mr M's SIPP with the new provider. IFDL also offered to pay Mr M £350 by way of compensation for the concern it had caused him when it had "left him in the dark" by its delays.

Mr M did not accept what IFDL said. He said the sale proceeds of the two assets, sold in May, hadn't been transferred to his new provider until July 2024 and he'd lost out on investment growth during that period. IFDL said it had acted on a clear instruction, received from the new provider and copied to Mr M, to proceed with the sale of the two assets in May 2024.

Mr M referred his complaint to our service. Our investigator looked into his complaint. He considered the Transfers and Re-registrations Industry Group (TRIG) framework, published in June 2018, which set out a timeframe for the completion of transfers. The framework was supported by the Financial Conduct Authority (FCA), so he thought it was fair to consider the timescales set out by TRIG as good practice for the completion of transfers. The TRIG framework said that for cash transfers the end to end timeframe (including bank clearance time) was ten business days. For more complex transfers a step-by-step standard of two full working days, plus the day of receipt, for each step had been established.

Applying the TRIG framework our investigator thought that the timeframe started at the point when the new provider had asked the SIPP administrator (O) for a valuation on 10 March 2024. O ought to have contacted IFDL to provide this information by 13 March and IFDL should have responded by 15 March 2024.

Based on its response time to the valuation, our investigator said that the new provider would have confirmed its acceptance of the transfer and instruction to sell the two assets on 20 March 2024. At this point, the transfer was part in-specie and part cash. A cash transfer ought to have completed within ten working days.

Our investigator said that IFDL shouldn't have sold the assets without the authority of the Trustee and shouldn't have retained the cash proceeds for such a long time without following up with O regarding the transfer of the residual assets to the new provider.

Our investigator noted that Mr M hadn't suffered any financial loss because of the delay with the in-specie transfer – although he was inconvenienced and had to send several follow up emails to IFDL and O. He thought that both IFDL and O had contributed to the cash transfer being delayed.

Our investigator thought Mr M would have invested in the same way as he subsequently did, had the transfer completed on 3 April 2024 – but he would have done so at the earlier date. So, to put Mr M back into the position he would have been in, if there'd not been any undue delay, redress should be calculated as follows:

- IFDL should obtain the notional value of Mr M's pension from the new provider on the basis that the two assets would have been sold on 21 March 2024 and the cash would have been received by the new provider on 3 April 2024 and invested by the new provider following receipt of the funds (Value A).
- Subtract the current value of his pension (Value B) from Value A.
- If the answer is negative no redress is payable. If the answer is positive IFDL should pay Mr M 50% of Value A minus Value B.

This amount should if possible be paid into Mr M's pension plan and should allow for the effect of charges and any available tax relief. If it wasn't possible to pay the amount into the pension plan it should be paid directly to Mr M as a lump sum after making a notional deduction for future income tax that would otherwise have been paid. Assuming his likely income tax rate in retirement would be 20% that meant a notional deduction of 15% overall should be applied.

Mr M queried whether any notional tax would be deducted if redress was paid into his pension. Our investigator confirmed that in these circumstances there would not be any notional deductions for tax. Mr M accepted what our investigator said.

IFDL responded to what our investigator said. By way of summary it said:

- it believed it was entitled to proceed with the sale of the two assets after it received an instruction from the new provider which it said had been authorised by Mr M. However, whilst it said it believed it was acting within its contractual obligations, it acknowledged it should have requested more concrete evidence of Mr M's desire for the sales to be placed.
- After it received authorisation to proceed on 5 July 2024, it had completed its responsibilities within the TRIG timescales.
- It did not accept it was responsible for any delays other than the initial delay of providing the valuation to the new provider.

Our investigator considered what IFDL had said but he did not change his view. He said the delay in the transfer as a whole impacted on when the sales of the assets ought to have occurred. The assets should not have been sold if the cash proceeds could not have been sent to the receiving scheme promptly. It was the case that O had also caused delays but IFDL shared in the responsibility for the financial loss Mr M had incurred.

Because IFDL did not agree, the complaint was passed to me to decide. I issued a provisional decision in which I said:

> ***What I've provisionally 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.*
>
> *The TRIG framework was published in 2018 and set out good practice timeframes for pension transfers. It established that most transfers should complete within ten working days. Where numerous transactions and counterparties were involved it set out a step by step standard of two full business days, plus initial day of receipt, to complete each step. The framework also set out the occasions where these time periods might not apply. As our investigator said, the TRIG framework is accepted as good industry practice.*
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> *When thinking about Mr M's complaint I've noted that the transfer of his SIPP did involve several counterparties and it was also complex. Although he'd requested a full in-specie transfer of his SIPP to the new provider, this wasn't possible. His request was processed as a part transfer of his assets because one asset was suspended and in the end it was agreed that this asset would not transfer to the new provider. As regards the residual assets part of the transfer was in-specie and part of the transfer was cash – because the new provider would not accept the transfer of those particular assets by way of an in-specie transfer. So, I think it's appropriate to consider what happened here using the step by step approach set out in TRIG.*
>
> *<u>Step 1</u> – <u>The discovery request is sent by the new provider to confirm what is held in the SIPP</u>*
>
> *Mr M appears to have signed the forms requesting the transfer on 15 February 2024. O received the signed forms on 15 February 2024 and subsequently received the request (for a valuation) on 10 March 2024.*

<u>Step 2</u> - <u>The ceding party will send a valuation back to the acquiring party via electronic re-registration message listing the assets held by the customer and their ISINs or other identifiers.</u>

This step commenced when O received the request for a valuation, which was 10 March 2024.

In order to respond to the request for information O needed to contact IFDL which held the assets on its Platform. I can see it did that on 21 March 2024 – so there was a delay in sending this request to IFDL. I can also see that there were three follow up requests sent to IFDL regarding the valuation request. These were sent on 8 April 2024, 19 April 2024 and 29 April 2024. However IFDL acknowledges it failed to pick up any of these requests.

IFDL didn't respond to the request for valuation until 15 May 2024 – which was around eight weeks later.

This response included all of the details the new provider required including:

- *A valuation;*
- *Details of the asset that was suspended; and*
- *Confirmation of the information that was required for in-specie transfers and cash transfers.*

IFDL has accepted that its servicing fell far short of expectations – particularly during this step in the process. It said it should have reasonably processed the request and issued the valuation within three business days of receipt of the request. I'll comment further about that below.

Overall, there was a significant delay completing this step. Applying the TRIG timescales, it should have been completed within three business days of receipt of the request. The request was received by O on 10 March 2024 (which was not a business day). So, allowing for two business days plus the date of receipt, the valuation should've been sent back to the new provider by 13 March 2024.

I am conscious there were two parties involved in this step. Both of those parties caused delays. However the goal of the TRIG framework was to improve customer experience and to ensure that processes were improved. The background to the framework states:

> *"When moving investments, assets and entitlements between institutions, people have a legitimate right to expect the industry to execute their instructions in a timely and efficient manner. Furthermore, customers' service expectations are increasing due to the relative simplicity of switching in other markets. Slow transfers can cause detriment to customers; and the actions of one party can reduce the efficiency of all parties in the chain."*

IFDL says it can't be expected to have dealt with the request until it received it from O. And, it says, under the TRIG framework it then had two business days (plus the date of receipt) to action the request. I've thought about what it's said here.

The timeframe set out in TRIG for this step starts when the valuation request is received by the SIPP provider and ends when the valuation is sent to the new provider. So, the timescale of two business days (plus date of receipt) includes obtaining the response to the discovery request.

TRIG says that an organisation will not be accountable for the underperformance of counterparties that are outside of their control. However in this case IFDL had entered into a "product partner" arrangement with O under which IFDL agreed to provide the investment administration service for the SIPP investment assets held on its platform on behalf of O. And IFDL agreed to deal in securities for the client (Mr M) on the same terms as any other client on its platform. It also agreed that if it wasn't practicable to act on instructions received from O it would inform O "promptly." Despite this, IFDL did not pick up the valuation request from O – nor did it pick up any of the three reminder emails it was sent.

I agree that IFDL couldn't be expected to provide a response to the discovery request until after it had received the request from O. However, even after it received the request it failed to deal with it, despite several follow up requests. It took around eight weeks to respond to the request. It has acknowledged its response to the request fell "far short" of expectations.

Having considered everything, notwithstanding the delays caused by O in requesting the valuation, I'm persuaded on balance this step – which required O and IFDL to work together - should reasonably have concluded within the standard two business days, plus the date of receipt, set out in the TRIG timescale – that would've been 13 March 2024.

<u>Step 3</u> - <u>The new provider will then add the list of assets to the customer's account, and confirm that it can (or cannot) hold all of the assets on their platform. If the new provider cannot hold an asset, it will request the ceding party sells the asset and send funds to the new provider.</u>

The new provider confirmed on 20 May 2024:

- *The suspended asset was to "stay with you;"*
- *it could not accept two of the listed assets. Insofar as these two assets were concerned it had received instructions from the client to "sell and transfer as cash."*
- *It requested some further information concerning nominee details and unit trust account numbers for certain assets.*

I've noted that the new provider took four business days (including the date of receipt) to complete step 3. So, on the assumption that this step could reasonably have started on 13 March 2024, it's fair to say it could have been completed on 18 March 2024.

After O received the response from the new provider it said it needed to verify certain matters:

- *Did the Trustee of the Scheme authorise the transfer? and*
- *Did Mr M confirm that the suspended fund could remain with O – on IFDL's platform?*

It also needed to send the new provider the additional information it had requested.

I can see that Trustee authorisation wasn't received by IFDL until 5 July 2024. It's not clear why there was a delay in obtaining the trustee authorisation or why there was a *delay sending this to IFDL. IFDL responded on 16 July, apologised for its delay in response and confirmed that the transfer had completed on 15 July.*

O asked Mr M for his confirmation about the suspended fund on 13 June 2024 and he confirmed his instruction on that same date.

There were also delays sending the additional information the new provider had requested. IFDL was required to provide this information and it contributed to the delay as regards providing the information sought.

I am persuaded, on balance, O was required to take additional steps before it could proceed – given that this was now a partial transfer and the suspended fund was not to be transferred to the new provider. IFDL was also required to wait until it had the correct authorisations before it could proceed and, as it has now acknowledged, it shouldn't have sold the two assets without more concrete evidence of Mr M's desire to sell the two assets. IFDL should also not have proceeded without the authorisation of the Trustee.

As I've stated above it is important that the counterparties work together during the transfer process to ensure that the transfer is completed as promptly as possible. So, it's fair and reasonable to have expected IFDL and O to have worked together to ensure that all necessary authorisations were obtained during this step of the process – to avoid delay.

Having considered everything, I'm persuaded, on balance, the verifications could've been obtained within the standard step timescale of two days, plus day of receipt – which would've been 20 March 2024.

<u>Step 4 - OEICs are transferred by the ceding party sending an electronic re-registration message to the fund manager requesting the transfer. For cash transfers, the ceding party will instruct the sale of the assets if applicable.</u>

Assuming that the verifications could've been completed by 20 March 2024, step 4 could've commenced on that date.

So, by 20 March 2024 O should have had all the information, and verifications, it needed to instruct IFDL to sell the two assets and proceed with the transfer in-specie of the residual assets. IFDL could have arranged the sale of the two assets on 21 March 2024 (the next business day).

I've then thought about how long it should have taken IFDL to complete the sale of the assets and for the cash to have been received by the receiving scheme.

TRIG sets out that the end to end standard for two counterparties involving cash assets should be ten business days including the BACS timescales. So, applying the TRIG end to end timescale for the sale of the assets and the transfer of the cash, it's fair and reasonable to conclude that the cash transfer should've been received by the new provider on 5 April 2024 (allowing for non-business days during this period).

I think it's also reasonable to conclude that the in-specie transfer should have concluded at around the same time.

Having reviewed each step I have concluded there was a significant delay, of around 16 weeks in total, in the transfer of Mr M's SIPP to the new provider.

What I've provisionally decided needs to be done to put things right.

When thinking about what needs to be done to put things right our Rules provide that we can make a money award for such amount as we consider to be fair compensation for one or more of the following:

- financial loss (including consequential or prospective loss);
- pain or suffering;
- damage to reputation;
- distress or inconvenience,

whether or not a court would award compensation.

There is further information available on our website setting out what our service takes into account when deciding what amount of compensation would be fair overall to put right the impact a mistake or as here, a delay, has on a complainant.

<u>Financial Loss</u>

My aim is that Mr M should be put as closely as possible into the position he would probably now be in if the transfer of his SIPP had not been unduly delayed.

As our investigator said I don't think Mr M suffered any financial loss because of the delay in the in-specie transfer. Mr M hasn't provided any evidence to challenge what our investigator said on that point.

Mr M says he suffered financial loss because two of his assets were sold and the cash wasn't transferred to the new provider for a considerable period of time. I've decided that the assets should have been sold on 21 March 2024 and the cash transfer should have been completed by 5 April 2024. Infact the assets were sold on 21 May 2024 and the cash transfer wasn't made to the receiving scheme until 24 July 2024. So, the cash transfer was delayed by around 16 weeks.

IFDL wasn't wholly responsible for the delays here. However, it has acknowledged its response to the request for the valuation fell far short of expectations and it also failed to act on any of the "chaser" emails it was sent. IFDL was responsible for a delay of almost eight weeks during step 2 of the TRIG process.

The role of our service is to resolve disputes fairly, reasonably, quickly and with minimum formality. Bearing that in mind and having considered everything that happened here, I think it's fair and reasonable that IFDL should be liable for 50% of any financial loss Mr M experienced as a result of the overall delay in transferring his SIPP.

Our investigator thought Mr M would have invested in the same way as he subsequently did, had the cash transfer completed at the earlier date. I've not been provided with any information which suggests that is not a reasonable assumption. So, I've provisionally decided that IFDL should carry out a financial loss assessment as set out below:

- *Obtain the notional value of Mr M's pension from the new provider on the basis that the two assets would have been sold on 21 March 2024 and the* *cash would have been received by the new provider on 5 April 2024 and invested in the same way as it was subsequently invested (Value A).*

- *Subtract the current value of Mr M's pension (Value B) from Value A.*

- *If the answer is negative no redress for financial loss is payable.*

- *If the answer is positive IFDL should pay Mr M 50% of Value A minus Value B. This amount should if possible be paid into Mr M's pension plan and should allow for the effect of charges and any available tax relief.*

- *If IFDL is unable to pay the compensation into Mr M's pension plan, it should pay that amount direct to him. But had it been possible to pay into the pension, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr M won't be able to reclaim any of the reduction after compensation is paid.*

- *The notional allowance should be calculated using Mr M's actual or expected marginal rate of tax at his selected retirement age.*

- *It's reasonable to assume that Mr M is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr M would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.*

- *If either IFDL or Mr M dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified and Mr M receives appropriate compensation. It won't be possible for us to amend this assumption once any final decision has been issued on the complaint.*

<u>Distress and Inconvenience</u>

IFDL has already accepted it was responsible for at least some of the delays here. And it has acknowledged that Mr M was caused distress and inconvenience. As I've said above Mr M had to get involved in the process to try to get matters progressed. Despite that there were still long delays. So, I can understand how frustrated he would've been.

IFDL has refunded the Platform fees for the months of May and June 2024 and it has also offered to pay Mr M £350 by way of compensation for the concern he was caused as a result of the delays and lack of communication.

Having thought about everything including our guidelines for awards for distress and inconvenience, I think the offer to pay Mr M £350 for distress and inconvenience is fair and reasonable in all the circumstances that applied here. So, I don't intend to ask IFDL to have to pay Mr M anything further for distress and inconvenience.

My provisional decision

For the reasons given above I intend to uphold this complaint about Investment Funds Direct Limited. My provisional decision is that Investment Funds Direct Limited should carry out a financial loss assessment as set out below:

- *Obtain the notional value of Mr M’s pension from the new provider on the basis that the two assets would have been sold on 21 March 2024 and the cash would have been received by the new provider on 5 April 2024 and invested in the same way as it was subsequently invested (Value A).*

- *Subtract the current value of Mr M’s pension (Value B) from Value A.*

- *If the answer is negative no redress is payable.*

- *If the answer is positive Investment Funds Direct Limited should pay Mr M 50% of Value A minus Value B. This amount should if possible be paid into Mr M’s pension plan and should allow for the effect of charges and any available tax relief.*

- *If Investment Funds Direct Limited is unable to pay the compensation into Mr M's pension plan, it should pay that amount direct to him. But had it been possible to pay into the pension, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn’t a payment of tax to HMRC, so Mr M won’t be able to reclaim any of the reduction after compensation is paid.*

- *The notional allowance should be calculated using Mr M's actual or expected marginal rate of tax at his selected retirement age.*

- *It’s reasonable to assume that Mr M is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr M would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.*

- *If either Investment Funds Direct Limited or Mr M dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified and Mr M receives appropriate compensation. It won’t be possible for us to amend this assumption once any final decision has been issued on the complaint.*

And, if it hasn’t done so already, I intend to require Investment Funds Direct Limited to pay Mr M £350 by way of compensation for distress and inconvenience he experienced as a result of what happened here.

Mr M responded to my provisional decision. He said that although he agreed with the reasoning he didn’t understand the logic around the timescales and the practicality around how to assess the current market value. In response our service wrote to him as follows:

"The Ombudsman has considered your response and thought it might be helpful to provide some further clarification. She says that the loss calculation set out in the provisional decision aims to track exactly what did happen after the transfer was fully processed - but just on the assumption that it would have completed at an earlier point in time. So, she's currently not minded to change her view about how this complaint should be resolved - as set out in the provisional decision.

The "current value" is really just the "actual plan value" comparator to determine *whether the cash transfer would have performed better had it all happened sooner. The current value will be the actual plan value at the date of any final decision along the lines of the provisional decision. The "notional value" to be reconstructed by the respondent business is the key figure for determining whether a loss has occurred. The notional value will be the value the plan should have had - again at the date of any final decision along the lines of the provisional decision. So, it will track the same investment decisions which have actually been made since (but had they happened proportionately earlier)."*

Mr M responded to say that he agreed with this approach. He hasn't made any further comments.

IFDL said that it would comply with the provisional decision. It was subsequently provided with a copy of Mr M's response to the provisional decision and the further clarification given to Mr M by our service. It hasn't made any further comments.

So, I now need to issue my decision.

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've not been provided with any new arguments or further information that causes me to change my view, or the reasons for my view, about how this case should be resolved. However, for the avoidance of doubt, I've decided to include the further clarification Mr M was given by our service within my final decision.

My final decision

For the reasons set out above, I uphold this complaint about Investment Funds Direct Limited. Investment Funds Direct Limited should now take the following actions to resolve this complaint:

1. It should carry out a financial loss assessment as set out below:

    - Obtain the notional value of Mr M's pension from the new provider on the basis that the two assets would have been sold on 21 March 2024 and the cash would have been received by the new provider on 5 April 2024 and invested in the same way as it was subsequently invested (Value A). For avoidance of doubt the notional value will be the value Mr M's pension should have had at the date of this decision. It will track the same investment decisions which have actually been made (but had they happened proportionately earlier).

    - Subtract the current value of Mr M's pension (Value B) from Value A. For avoidance of doubt the "current value" will be the actual value of Mr M's pension at the date of this decision.

    - If the answer is negative no redress is payable.

    - If the answer is positive Investment Funds Direct Limited should pay Mr M 50% of Value A minus Value B. This amount should if possible be paid into Mr M's pension plan and should allow for the effect of charges and any available tax relief.

- If Investment Funds Direct Limited is unable to pay the compensation into Mr M's pension plan, it should pay that amount direct to him. But had it been possible to pay into the pension, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr M won't be able to reclaim any of the reduction after compensation is paid.

- The notional allowance should be calculated using Mr M's actual or expected marginal rate of tax at his selected retirement age.

- It's reasonable to assume that Mr M is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr M would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

2. If it hasn't done so already, Investment Funds Direct Limited should pay Mr M £350 by way of compensation for distress and inconvenience he experienced as a result of what happened here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 July 2025.

Irene Martin
Ombudsman