complaint

Mr S has made the following complaints about investments HSBC Bank Plc made for him in its 'Selected Investment Funds' plans in 2009:

- The overall recommendation exposed him to more risk that he was willing to take
- The cautious portfolio HSBC used for the bulk of its recommendations exceeded its 'cautious' mandate
- It wasn't right for HBSC to compare the performance of his investments with fixed rate bonds when working out if he'd suffered any loss, because he was still willing to take *some* risk, involving some exposure to equities.

background

I issued a provisional decision on this complaint on 19 February 2018. A copy of this is attached and forms part of this final decision. In summary, I concluded that Mr S wasn't wrongly advised to split his investments between HSBC's World Selection cautious and balanced portfolios. I also wasn't in a position to conclude that the managers of the cautious portfolio hadn't broadly followed their mandate – or that the fund had been mismanaged.

HSBC responded saying that it had nothing further to add in response.

Mr S's CMC asked for a time extension in order to respond to the provisional decision. Our investigator asked them to respond by 19 March 2018. A further week has now passed from that extended deadline and we haven't heard further from the CMC. I've decided to proceed to issue my final decision on this complaint.

my findings

I've reconsidered all the available evidence and arguments from the outset to decide what's fair and reasonable in the circumstances of this complaint. Having done so I haven't departed from the reasoning in the provisional decision, attached – and I'm still of the view that Mr S's complaint shouldn't be upheld.

my final decision

I do not uphold Mr S's complaint and make no award. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 May 2018.

Gideon Moore
ombudsman

provisional decision of 19 February 2018

complaint

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Mr S is represented in this complaint by a claims management company (CMC).

background

In 2007 Mr S came into some money through the sale of a property. My understanding is that at this time he was recommended (by HSBC) to invest into two Guaranteed Investment Bonds. These bonds matured two years later with a small amount of profit.

In January 2009 Mr S met twice with an HSBC adviser to review his investments. He was a self-employed labourer aged 50 at the time. His savings – as noted on the 'fact find' – show his money was all with HSBC. He had small amounts in a current account and cash ISA, and a premier savings account of about £60,500. The adviser noted £5,000 should be excluded from investment for emergencies, as well as a further £5,000 which was earmarked for a future tax bill. This left about £51,100 he recommended Mr S invest as follows:

- £7,200 in an ISA - invested in the HSBC World Selection (Cautious Portfolio) fund.
- £21,000 in a Feeder Plan in this same fund – which would fund subsequent years' maximum ISA contributions.
- £12,800 in HSBC World Selection (Balanced Portfolio) fund – about 25% of the total
- The remainder of about £10,100 in secure investments (savings account) – about 20% of the total

The investments all started in January 2009. It seems Mr S's financial situation changed and he gradually moved sums out of the two portfolios. The balanced portfolio was closed in March 2011. His cautious portfolio was surrendered gradually between January 2010 and September 2013.

Mr S's CMC says that he saw no grounds for complaining when he surrendered the investment; simply believing he had invested at an unfortunate time in the markets and lost/not made much money. It added that Mr S was fully aware from HSBC's paperwork that the investment did have some risk, and he knew investments could go up and down in value.

In early 2016, HSBC was required by the regulator to review some of its investment advice, so HSBC revisited the recommendation given to Mr S in 2009. It asked Mr S to fill in a questionnaire but as it didn't receive a response, it closed its file. While this was going on Mr S engaged the CMC to act on his behalf.

In September 2016 the CMC claimed that in 2009, Mr S wanted to *'leave the majority of his money in lower risk investments'*. He had plans to retire at 65 and had a financially dependent daughter at university. So as he was self-employed, should anything have happened to his earnings he would need to rely on his savings. Mr S had become unable to afford the rent on his home and had moved in with his daughter; living off an overdraft.

The CMC didn't disagree with HSBC placing the majority of the investments it recommended in a 'cautious' portfolio. But it didn't think the assets the cautious portfolio invested in were consistent with that description. It highlighted the portfolio's exposure to global corporate bonds, which were mainly dollar-denominated, and Asset Backed Securities (ABS). It also noted it included a 13% equity content, was 11% invested in high-yield or 'junk' bonds, 6% in emerging market debt and 5%

property. As a result the CMC felt that the smaller sum HSBC placed into the higher-risk 'balanced' portfolio was also likely to have been unsuitable.

However, HSBC upheld Mr S's complaint on a different basis. It found he shouldn't have been in *any* risk based investments. It took into account what the CMC had said, but also noted that Mr S's pattern of withdrawals indicated that he hadn't wanted to invest for the long term. It calculated whether Mr S would've been any better off by investing the £41,000 he put into the cautious and balanced portfolios in line with the performance of Bank of England fixed rate bonds. This actually demonstrated that Mr S had made a gain of £3,774.

The CMC disagreed that Mr S had no capacity to invest for the medium to long term, because a third of the capital invested was kept for four years until 2013. They felt the correct benchmark to use in a loss assessment would be 50% linked with the FTSE UK Private Investor Income Total Return index. But HSBC didn't agree – its view was that equity exposure should only be considered if a customer was able to invest for at least five years.

One of our investigators looked at the complaint. She concluded Mr S was a cautious investor overall, so she felt only the choice of a balanced portfolio for some of his investment was inappropriate. She said to put things right, that investment in the balanced portfolio (on its own) should be compared with the 50%/50% benchmark the CMC had requested – because this broadly corresponded to a cautious (but not *nil*) attitude to risk.

The CMC disagreed with the investigator as they remained concerned about the composition of the World Selection cautious portfolio itself. As agreement couldn't be reached, the complaint has been passed to me for a final decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr S's CMC describes him as someone who was aware that the investments he made did have some risk, and could go up and down in value. He evidently wasn't alarmed by the way his investments performed, until HSBC's review (which he didn't initially participate in) prompted his CMC to take a closer look at the actual funds he'd invested in.

The CMC also comments that Mr S wanted to *'leave the majority of his money in lower risk investments'*, but that he had *some* capacity to invest for the medium to long term. I don't think these two statements are mutually exclusive. And I think in actual fact they're both a fair reflection of what HSBC originally recorded as Mr S's attitude to risk.

To explain, Mr S completed a risk questionnaire for HSBC, which noted the following:

- He had little or no direct experience of investments and stock markets, but was willing to consider alternatives to deposits.
- He was interested in a portfolio which had more risk to capital, but carried the potential for some gains to be subsequently lost, or impacted by inflation.
- He would be disappointed if he invested £10,000 in shares and it fell by 20% in two years, but he would expect the lost ground to be made up in the long term.
- If he had a portfolio which had increased by 20%, but within this 1/10th of the original investment had fallen by 30%, he would still be pleased with the overall performance.

The questionnaire concluded from Mr S's answers that he was *'…a cautious investor… willing to accept some risk with their money but prefers to leave it predominantly in lower risk investments and cash. The overall portfolio may include some equities (balanced) to enhance the overall long term returns.'* The adviser used substantially the same language in the financial planning report he gave to Mr S, adding that Mr S was a '*cautious/low risk'* investor.

Given that Mr S did, by his CMC's admission, understand that he was taking some risks with his investment portfolio I see little basis on which I could disagree with this classification. It's true that Mr S had little previous investment experience, but following the sale of a property it's likely he now had more assets than he'd had previously. He'd already invested these in a low risk environment for two years. There's no suggestion from the 2009 point of sale that he was intending to buy another property. And without taking a modest degree of risk there was the prospect of inflation eating into his savings.

I don't agree with HSBC's argument that, because Mr S has subsequently withdrawn both the balanced and cautious portfolios over a period of four years, he didn't want to take this modest degree of risk originally. A person's circumstances can change, as it seems they have here – and we don't view complaints with hindsight. Given that HSBC did leave £10,000 out of its recommendation to cater for Mr S's short term needs – and recommended a further £10,100 was invested in readily accessible deposits as part of its portfolio – I think it did leave Mr S a sufficient cushion for him to take some risk with the rest, over at least a five year term. I don't think the fact that Mr S came to rely on the sums he invested to the extent that he did, was foreseeable at the time of advice.

HSBC seems to disagree that the sum of £10,100 should be considered part of Mr S's portfolio. But I've taken it into account in my analysis because it was the adviser's choice to include it in his recommendations. He only excluded the initial £10,000 because that was needed for a tax bill and 'rainy day' money. The rainy day money came to about six months' income, which is the sort of sum that an adviser will typically set aside before giving advice. But he then constructed a portfolio for the rest of Mr S's assets, which included this further £10,100 to be placed on deposit. I think that was reasonable, bearing in mind that Mr S only had about £130 monthly disposable income according to HSBC's fact find – and he was in a job which didn't guarantee him a particular income.

I think it was intended that this £10,100 (being at the very bottom of the risk scale) would largely counteract the £12,800 Mr S was to invest in the balanced portfolio (which, as its name would suggest, was further up the risk scale). So it would be wrong of me to leave the £10,100 out when evaluating whether, overall, the assets HSBC invested Mr S into met his objective of a cautious attitude to risk.

That doesn't automatically mean because Mr S predominantly invested in a fund which was called 'cautious', it must have been suitable for him. It depends on what the cautious fund (and the balanced one) actually invested in. So I looked at the factsheets for both these funds at a point close to when Mr S invested in 2009, and also took into account the extra £10,100 (which would be regarded as a 'cash' investment). The overall recommendation would roughly have contained the following split of assets:

Gilts and bonds: 42% Cash: 24%
Equities (UK and overseas): 21% Property: 2%
Other (emerging market debt, hedge funds, commodity/private equity): 11%

There is no one single answer to constructing a portfolio. The relative proportions of cash to bonds (which include government bonds or 'gilts'), and the relative proportions of UK to overseas equities may vary. But in my view having only one-third of the portfolio invested in the assets that tend to be riskier (equities, property and 'other') is broadly consistent with the cautious approach Mr S agreed with HSBC he wanted to take.

I've taken into account the CMC's comments about the particular composition of the cautious portfolio. I'm not sure which fund factsheet it's got its asset splits from, bearing in mind Mr S didn't invest in the fund after 2013. The factsheet I've used from 2009 doesn't have 11% invested in global high yield bonds, and I don't think the 2.2% split it does show would make the fund unsuitable for Mr S, as part of a wider recommendation. Investing in bonds more generally gave the fund the potential to produce higher returns than just gilts. I note from the 2009 factsheet that these bonds were hedged back, to Sterling to mitigate currency risks.

In later factsheets the fund does appear to have invested in some emerging market debt, but at a relatively low proportion of the total (and as part of a range of other investments the fund managers were permitted to make). I haven't been able to identify that the exposure to high yield bonds went anything like as high as 11% during the time Mr S invested. I accept that the cautious portfolio may have underperformed against Mr S's or his CMC's expectations. But the very nature of fund management is that not all of the investment judgements the manager makes turn out, with hindsight, to have been the best selection.

The fund factsheet from 2009 said that the cautious portfolio *'…aims to provide capital growth through cautious investment in a broad range of asset classes across global markets'*. I'm not in a position to conclude that the fund's managers haven't broadly followed that mandate, and without evidence that the fund has been mismanaged a complaint that's purely about investment performance can't succeed.

my provisional decision

I intend to conclude that Mr S wasn't wrongly advised to split his investments between HSBC's World Selection cautious and balanced portfolios. So I won't be requiring HSBC to carry out any further loss assessment, or making any award in this case.

Gideon Moore
ombudsman