

complaint

Mr G complains that Manek Investment Management Limited's various failings, including those of its representative company, resulted in a reduction of his fund and a loss of his ISA wrapper.

background

Manek wrote to investors on 6 November 2017 with a notification that its Growth Fund would be wound up, saying they would need to take urgent action and transfer their ISA to a new ISA manager in good time before the suspension date. The fund was going to be wound up on 28 December 2018 so transfer arrangements had to be done by 27 December 2018.

Mr G did not meet this deadline. He complained that Manek was responsible for the consequences of this failure due to its unnecessary and excessive identification requirements.

Manek rejected Mr G's complaint. It said it received a stock transfer request form from Hargreaves Lansdown (HL) on 24 November 2017. But this did not include the necessary identification and address verification so it wrote to HL on the same day asking for these documents.

It referred to a call with Mr G on 4 December 2017 during which its call handler specified which documents would be acceptable.

It said it received an HMRC letter and one of the documents required on 12 December 2017 plus a certified copy of Mr G's birth certificate (which wasn't acceptable and hadn't been mentioned in the 4 December 2017 call). As a result Mr G missed the 27 December 2017 deadline for the completion of the ISA transfer. When it received the necessary address verification on 7 February 2018 it released Mr G's funds. It said its representative company was entitled to request the documentation it considered necessary in order to meet Manek's obligations under UK and EU legislation.

Mr G did not accept this and brought his complaint to this service, saying he'd not previously had such ID checks when he'd transferred stock or cash between other providers. He also pointed out that he'd held his ISA for over 10 years with Manek and hadn't changed his address over that time. He said he'd also arranged for a similar stock transfer recently without having been asked for proof of identity, and he didn't think that what happened had been in line with the ease of transfer expected of businesses in relation to ISA transfers.

Overall, he felt Manek made unnecessary and time-wasting demands when there was a very tight time frame. He was looking for compensation to take account of the reduced fund value as well as the loss of his ISA wrapper.

An adjudicator at this service did not feel his complaint should be upheld.

He accepted that there was a tight time frame to arrange for an ISA transfer to another provider. But he said it was not for him to prescribe exactly what identity and address verification a business decides it need to carry out its obligations, and he was satisfied that Mr G could have provided the necessary documentation in the time required.

He accepted that Mr G had enjoyed continued residence at the same address and the fact that other firms may not have asked for identity verification when arranging transfers but said that didn't determine what Manek was entitled to ask for.

He noted that under the Financial Conduct Authority's (FCA) rules, financial firms are required to have in place policies and procedures in relation to customer due diligence and monitoring. It does not prescribe exactly how firms have to do this. He also noted that the general trend has been towards more stringent checks in line with increased regulatory expectations.

In this context he did not consider the provision of something like a council tax bill (which Mr G was eventually able to provide) was unreasonable or particularly onerous, nor was the range of documentation requested unusual.

As a result, he did not feel Manek was responsible for the loss of Mr G's ISA wrapper or of the potentially reduced value of his funds.

Mr G did not agree, and said

- He had transferred many ISAs from one provider to another without the need for ID verification
- He simply asked Manek to transfer his funds to a business whose client he had also been for a very long time. There was no encashment request involved
- Manek's position was pedantic and unnecessary
- Placing the facility of an elderly private investor in direct parallel with a financial organisation of very considerable resources is unreasonable and he should not be in any loss making position due to actions which were outside his control

Manek responded, saying:

- It told Mr G what documents it needed on 4 December; unfortunately he then sent a birth certificate which it could not accept (rather than a passport, driving licence, bank statements or utility bill)
- It immediately wrote back on 14 December explaining it could not accept his birth certificate so it's not to blame for Mr G failing to return the correct document till 7 February
- It therefore fails to understand his argument that the matter was outside his control
- Manek provided investors with 50 days notification of the wind-up, whereas the minimum requirement per ISA regulations is 30 days
- The notification also made clear to ISA investors the importance of taking urgent action, including the tax consequences of not doing so

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint – and in this case I agree with the adjudicator and for the same reasons.

Firstly, I should explain that my role is to consider whether a business has clearly made a mistake or done something wrong - when assessing whether a complaint should be upheld. So while I may conclude that it might have done things differently or that what happened was

clearly unfortunate, I can only uphold a complaint if I am satisfied that a business did something manifestly wrong. In this case I do not believe Manek did.

Manek was entitled to decide on what documents it required to meet its increased data protection, money laundering and other regulatory requirements. These have increased significantly in the past 10 years so what was necessary or appropriate a decade is no guide to current requirements.

So, unfortunately, Mr G's long-standing relationship with Manek and his long-standing place of residence did not mean Manek did not have to carry out any checks or that it was not entitled to do. It was then, in my view, for Manek to decide upon which documents it felt were required – within reason. I do not believe the documents it insisted on were unreasonable. It offered Mr G a number of options to meet the address verification requirement; a copy of his passport was not one of them. The fact that other businesses might do things differently does not mean Manek did something wrong.

I am also satisfied that it explained what was needed so it cannot be held responsible for the consequences of Mr G failing to provide the documents in the necessary timescale.

my final decision

I do not uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 20 December 2018.

Tony Moss
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