

complaint

Ms T complained that Credit Suisse (UK) Limited ("Credit Suisse") made an error in transferring her pension fund, which caused her a financial loss.

background

In 2011, Ms T was looking to move her pension funds from one advisor, to be managed by Credit Suisse. The SIPP provider was to remain the same.

One of the funds Ms T wanted to transfer had to be sold first. So it was arranged that the transfer of this fund would happen separately to the rest. Once the fund was sold, the money, which was around £250,000, was transferred into the SIPP bank account in May 2012.

In 2015, and again in 2016, Ms T raised some questions about a large amount of cash sitting in the SIPP bank account which hadn't been invested. After speaking to Credit Suisse and the SIPP provider, it came to light that after the money had been received in May 2012 it hadn't been invested with Credit Suisse and had been left in a bank account. The money was eventually transferred to Credit Suisse on 29 April 2016 and it was invested, some four years later than it should've been.

Ms T complained to both Credit Suisse and the SIPP provider. She said she'd given both parties instructions as to what she wanted to do with the money and she couldn't understand why the money hadn't been invested. She said she'd received an email in May 2012 from the SIPP provider to Credit Suisse which said the money had been received, and it would contact Credit Suisse for further instruction. She couldn't understand why this hadn't happened. Ms T complained that as a result of the actions of both parties, she'd lost out on a significant growth on her investment.

Credit Suisse said it couldn't find any record on its systems that the SIPP provider had got in contact, further to the email of 2 May 2012. And it said that it was the SIPP provider's responsibility to transfer the funds to them, and because it hadn't done this, Credit Suisse hadn't been able to invest the funds. It also said that Ms T had been receiving statements since 2012, but she had never raised this as an issue.

Ms T brought the complaint to our service. Our investigator thought that Credit Suisse should've done more to chase where the funds were, and make sure they were invested as part of her plan. She said that Credit Suisse, as her advisor, were aware that the money was coming and they'd been told on 2 May that the funds would be available. So when no further contact was made from the SIPP provider, our investigator said it should've been chased up. She thought Credit Suisse were responsible for Ms T's investment loss.

Credit Suisse didn't agree. It said it didn't think it had an obligation to actively follow up on incoming fund transfers where Credit Suisse was not the initiator of the payment instruction.

Because Credit Suisse didn't agree, the matter has come to me to decide.

I've already outlined my thoughts to both Credit Suisse and the SIPP provider, as the outcome I intended to reach was different to that of the investigator. I said to both parties that I thought both should share responsibility for compensating Ms T 50% equally. I've summarised what I said below.

Credit Suisse accepts it's unfortunate that they didn't chase the matter with the SIPP provider, but said it had no visibility on the cash bank account, and couldn't make a request for that money. The transfer into the SIPP needed to be made by the SIPP provider or Ms T.

I said that having looked at Ms T's emails, I thought she made clear what her intentions and instructions were to both the SIPP provider and Credit Suisse. She also said no one told her that she needed to take any further action and was given the impression by both parties that the transfer was being made. So she had no reason to make a request to transfer the money as she'd been told that this would be done.

Ms T was provided with an annual statement in 2012 which showed the money as cash. She says she assumed this was there in the interim whilst the transfer was being made, and after 2012, she wasn't sent a copy of the statements. These went from the SIPP provider directly to Credit Suisse, as her advisor. So she couldn't have known the transfer hadn't been made.

Based on this I didn't think there was anything more I'd have expected Ms T to do. I accepted this was a self-invested pension; however Credit Suisse as her adviser and the SIPP provider had everything they needed from her for the transfer to be made. And it seems that a breakdown in communication between the SIPP provider and Credit Suisse has resulted in this quite simple movement of funds being missed.

Both Credit Suisse and the SIPP provider have said they weren't responsible for moving the money – but I found this difficult to accept. The SIPP provider failed to communicate with Credit Suisse as they'd promised. And I noted that in 2016, when Ms T had realised what had happened, it was the SIPP provider who then moved the funds over to Credit Suisse to be managed.

However Credit Suisse, despite being Ms T's fund manager, didn't chase up any funds in 2012. I hadn't seen Credit Suisse's investment plan for Ms T, but I assumed there was a plan for where the cash from this fund was due to be invested and an expectation that the funds would become available. It's unfortunate that this wasn't picked up at any point, or chased, by Credit Suisse, despite being on notice that the funds of around £250,000 were due.

The SIPP provider said their letter to Credit Suisse dated 28 May 2012 discharged their liability in relation to moving the funds. This letter confirmed that a CHAPS payment had been made for over £250,000, but it didn't say into which account this has been paid. And there weren't any instructions on this letter. However Credit Suisse's defence was to say that this letter and annual statements weren't received by the fund manager, so they were unaware of what had happened. Looking at the letter and the annual statements, I was satisfied they were sent by the SIPP provider, and if the fund manager hadn't received them then I'd have expected this to be chased up by Credit Suisse.

Credit Suisse accepted my provisional thoughts and had no further points to raise.

my findings

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

As Credit Suisse didn't have anything to add, I see no reason to depart from what I said in my provisional decision as set out above. I uphold Ms T's complaint and hold Credit Suisse responsible for 50% of any losses.

what should Credit Suisse do?

The purpose of the redress set out below is to put Ms T back in the position she'd most likely be in had the transfer been made in 2012. So to compensate Ms T fairly, Credit Suisse must:

1. Compare the performance of the fund at the date of settlement (amount A) with the value it would've been had the money been invested in the relevant fund since 16 May 2012 (amount B).

I've used the date of 16 May 2012 as it seems the date the money became available was 2 May 2012, so assuming it took no longer than two weeks for the transfer to take place (which would be a reasonable period to achieve this), this would be 16 May 2012 when Ms T's money should've been invested by.

2. If amount B is greater than amount A, Credit Suisse should pay into Ms T's pension plan 50% of the difference in the amounts.

Importantly, compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance held by Ms T. If Credit Suisse is unable to pay the total amount into Ms T's pension plan, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid.

The *notional* allowance should be calculated using Ms T's actual or expected marginal rate of tax at her selected retirement age.

For example, if Ms T is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Ms T would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation.

3. Pay Ms T £150 for the distress and inconvenience this has caused her. Ms T has been understandably distressed that a large amount of money hadn't been invested for a number of years. She has also had to spend a lot of time ensuring her accounts are now up to date and there are no further communication errors, this has caused her inconvenience.
4. Add and pay 8% simple per year from date of decision to date of settlement (if compensation is not paid within 28 days of the business being notified of acceptance).

Income tax may be payable on any interest paid. If Credit Suisse deducts income tax from the interest it should tell Ms T how much has been taken off. Credit Suisse should give Ms T a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

my final decision

For the reasons outlined above, I uphold Ms T's complaint against Credit Suisse (UK) Limited.

I direct Credit Suisse (UK) Limited to pay Ms T compensation calculated as set out above.

Credit Suisse (UK) Limited should provide details of its calculation to Ms T in a clear and simple format.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms T either to accept or reject my decision before 11 October 2017.

Michelle Henderson
ombudsman