

complaint

Mr W has complained that Alliance Trust Savings Limited (ATS) were responsible for a delay in the investment of cash he held in his SIPP fund.

background

The background to this complaint is set out in my provisional decision which is attached below.

I explained why I felt this complaint should be upheld and set out how any redress should be calculated.

Mr W accepted my provisional decision. ATS responded and said that it did not agree. It said that its handling procedure states that it aims to route the orders to the appropriate fund manager "within one business day of receipt". Therefore, instructions received on 29 June should have been submitted to the appropriate fund managers within one business day and in this instance the next business day was 30 June 2016. Its terms and conditions do not commit to ensuring all instructions are submitted in time to make a specific trading point on the next calendar date. ATS says that the decision disregards the terms and conditions.

my findings

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

I have considered what ATS has said but I think the complaint should be upheld. I am not ignoring the terms and conditions and I don't consider them irrelevant. As I have said, ATS agreed to deal with these instructions in a non-typical way. ATS agreed to accept instructions by e-mail and Mr W's adviser was told in a telephone conversation with ATS that the transactions would go ahead as soon as the systems allowed it. The systems were restored by around 11.30 a.m. that same day.

ATS said that the transaction would be processed when the systems were restored. I think that any question marks about the adequacy of the instructions it had to make the requested investments could have been resolved before that assurance was given. And if it had been the transaction could have been processed sooner.

To put things right ATS should;

Assuming the investments are still in place, calculate the current value of each investment Mr W actually made on or around 1 July 2016. It should then compare this with the hypothetical value of the funds assuming that the investments had been made based upon full and complete instructions being in place before midday on 29 June 2016. It should pay Mr W the difference if there is one.

ATS should also pay £500 for the delay in dealing with the complaint.

ATS should provide a schedule setting out the relevant fund valuations which demonstrate any potential difference between the actual fund values and the hypothetical values. It should state the actual number of units purchased and the number of units that could have been purchased if the investments had been made sooner.

my final decision

I uphold this complaint about Alliance Trust Savings Limited. It must calculate and pay redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 January 2018.

Keith Taylor
ombudsman

extract from provisional decision

complaint

Mr W has complained that Alliance Trust Savings Limited (ATS) were responsible for a delay in the investment of cash he held in his SIPP fund.

background

Mr W was holding around £2 million in his SIPP fund with ATS. In late June 2016 his advisers attempted to make a number of investments into specific funds. That did not happen as the on-line service was down. The advisers contacted ATS and were told that in these circumstances the investments could be made over the telephone and by e-mail.

Mr W's adviser had conversations with ATS staff. At around 10.30 a.m. on 29 June the adviser spoke with a member of staff who confirmed, in effect, that the instructions would go ahead once the systems were restored. The systems were restored by about 11.30 a.m. but the instructions did not go ahead as there was insufficient information. ATS contacted the adviser by e-mail asking for further information (fund codes) for the selected investments. These were provided later that afternoon which meant the transactions were delayed.

ATS say that the member of its staff who spoke with the adviser at 10.30 on 29 June was not a dealer. He was a relationship manager and not an authorised dealer. He was just trying to help out.

Our adjudicator said that the complaint should be upheld. He thought that the adviser could have been re-directed to speak with a dealer. If that had happened then the transactions would probably have gone ahead sooner. He said that ATS should put Mr W in the position he would have been in had the transactions gone ahead sooner. He also felt that there was delay in dealing with the complaint and said that ATS should pay £500 for any distress this had caused.

ATS did not agree.

my findings

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

The background to this complaint is summarised above but both parties are familiar with the full background.

I agree with the adjudicator and intend to uphold this complaint. The on-line system was down through no fault of ATS. Its terms and conditions say that it does not have any liability for any inability to trade in these circumstances. I think that's essentially agreed.

But in this case ATS agreed to accept instructions by e-mail. Instructions were sent and although these may have been incomplete it seems that Mr W's adviser was told in a telephone conversation with ATS that the transactions would go ahead as soon as the systems allowed it. The systems were restored by around 11.30 a.m. that same day.

I think that assurance is at the crux of this complaint. If the ATS employee who spoke with the adviser was not experienced or qualified in dealing then this could have been explained and/or no assurance given. Or the call could have been redirected to a dealer.

Based upon what I have seen I think the instructions to ATS should have been handled differently. Mr W was looking to switch almost £2 million from cash into a variety of investments and so I agree with him that this was a significant set of transactions which should have been treated accordingly.

ATS had agreed to deal with these instructions in a non-typical fashion. It had said that the transaction would be processed when the systems were restored. I think that any question marks about the adequacy of the instructions it had to make the requested investments could have been resolved before that assurance was given.

Mr W says that he has lost out because of the delay. I think that to put things right ATS should do the following;

Assuming the investments are still in place, ATS should calculate the current value of each investment Mr W actually made on or around 1 July 2016. It should then compare this with the hypothetical value of the funds assuming that the investments had been made based upon full and complete instructions being in place before midday on 29 June 2016. It should pay Mr W the difference if there is one.

ATS should also pay £500 for the delay in dealing with the complaint.

ATS should provide a schedule setting out the relevant fund valuations which demonstrate any potential difference between the actual fund values and the hypothetical values. It should state the actual number of units purchased and the number of units that could have been purchased if the investments had been made sooner.

my provisional decision

I intend to uphold this complaint. This is my provisional decision and it may change depending on the responses I receive.