

Ombudsman determination

CIFO Reference Number: 16-000322

Complainant: [The complainant]

Respondent: [Bank X]

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.¹

[The complainant] complained about a charge imposed by Her Majesty's Receiver General of [jurisdiction 1] following the actions of [Bank X] in dealing with his late father's funds. [The complainant] is authorised to bring the complaint in relation to his late father's financial affairs.

Background

[The complainant's] father, [redacted for anonymisation purposes], passed away [overseas].

In March 2014, the board of [Fund X] informed its customers of the decision to liquidate the fund company. This fund held assets belonging to [the complainant's father].

In a letter dated 25 March 2014 to all investors, [Bank X] wrote in their enclosed summary of proposals that:

"All proceeds that remain unclaimed by 30 June 2014 will be passed to HM Receiver General of [jurisdiction 1] to be retained thereafter until such time as the monies are legally claimed by shareholders.

To claim liquidation proceeds from HM Receiver General in [jurisdiction 1], you will be required to provide evidence of your ownership of the shares, for example a copy of your Confirmation of Ownership document, contract note, or dividend advices, together with a copy of your passport or other identification document plus proof of your address. HM Receiver General will charge a fee for holding the funds which is either the amount of interest that is earned or 5% of the capital value or £500.00 whichever is the greater."

On 24 June 2014, six days before the 30 June 2014 limitation date for proceeds to be passed to [the Receiver General], [Bank X] were notified that [the complainant's father]

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

had passed away. Subsequently, [Bank X] liaised with [the complainant's] representative and confirmed the deadline for when proceeds would be paid to [the Receiver General] was extended to February 2015. Funds were transferred out of [the complainant's father's] [Bank X] account to [the receiver general] for them to administer and an administrator fee of 5% was paid by [Bank X] to [the Receiver General] out of the funds; this fee amounted to approximately £7,000.

Through his representative, [the complainant] informed CIFO that [Bank X] were aware of both his father's passing and the fact that he was awaiting probate in the United Kingdom, which was subsequently obtained in September 2015.

As a fair and reasonable resolution to the complaint, [the complainant] thought [Bank X] should reimburse him for the administration costs charged by [the Receiver General].

Findings

Based on the above, I am satisfied that the deadline of 30 June 2014 was properly communicated to customers, including [the complainant's father]. However, on 24 June 2014, [Bank X] were notified that [the complainant's father] had passed away. I note that [Bank X] implemented an extension to the claim date before the proceeds were paid to [the Receiver General], resulting in a revised deadline of February 2015. In the absence of any confirmation of probate or claim, [Bank X] passed £143,401.70 to [the Receiver General] on 22 February 2015. On 11 September 2015, both a UK grant of probate and [the complainant's] identification were forwarded to [Bank X] for onward transmission to [the Receiver General], in order for [the complainant] to obtain the funds.

[Bank X] have confirmed that the same timescale – including an extension to February 2015 - applied to other customers of [Fund X]. I acknowledge that some delay could have been anticipated in awaiting probate and documents from [overseas], but it would not be reasonable to hold [Bank X] liable for this, given that probate was not granted in the UK until September 2015; approximately eighteen months after [Bank X's] initial communication to customers that the company would be liquidated.

I acknowledge the representations made by [the complainant's] representative - including that the letters were originally sent by [Bank X] to [the complainant] who had passed away - but given that [the complainant's father] was the customer and [Bank X] had no way of knowing at that stage of his passing, I cannot conclude that [Bank X] made an error in this regard.

In any event, after receiving notification of the death of [the complainant's father] in June 2014, [Bank X] allowed an extension until February 2015 before funds would be remitted to [the Receiver General]. Given that [Bank X] extended the deadline before submission to [the Receiver General] until February 2015, and given that this approach was consistent with that taken for all customers of [Fund X], I take the view that [Bank X] have not acted unreasonably in this instance.

Final decision

My final decision is that I do not uphold this complaint.

[The complainant] must confirm whether he accepts this determination either by email to ombudsman@ci-fo.org, or letter to Channel Islands Financial Ombudsman, PO Box 114, Jersey, Channel Islands JE4 9QG, by **10 April 2017**. The determination will become binding on [the complainant] and [Bank X] if it is accepted by this date. If we do not receive an email or letter by the deadline, the determination is not binding. At this point [the complainant] would be free to pursue his legal rights through other means.

If there are any particular circumstances which prevents [the complainant] confirming his acceptance before the deadline of 10 April 2017, he should contact me with details. I may be able to take these into account, after inviting views from [Bank X], and in these circumstances the determination may become binding after the deadline. I will advise both parties of the status of the determination once the deadline has passed.

Please note there is no appeal against a binding determination, and neither party may begin or continue legal proceedings in respect of the subject matter of a binding determination.

Douglas Melville
Principal Ombudsman and Chief Executive

Date: 10th March 2017