<u>Ombudsman Decision</u>
<u>CIFO Reference Number: 25-000406</u>
<u>Complainant: Ms J</u>
<u>Respondent: Overseas Trust and Pensions Limited ("OTAP")</u>

The complainant, whom I'll refer to as Ms J, complains, in summary, that OTAP delayed in converting investment funds from euros to sterling and that she has suffered a financial loss as a result.

Background

In February 2025 Ms J applied to open an *OPES Spain – 2014* pension plan with Utmost Wealth. OTAP was named as the trustee of the plan and another business, PCC, was the adviser. The fund was to be held in euros.

Ms J's application was approved and, on 2 April 2025, Ms J arranged for a transfer of €110,000 to OTAP. Her intention was that €100,000 would be invested in the pension fund; the balance was to cover fees.

However, because of an error on the part of Ms J or her bank, the payment was converted into sterling. After fees had been deducted, OTAP received £91, 947.32 (instead of €100,000 which it had been expecting).

On 3 April 2025 PCC sent an email to OTAP, which said:

Please find attached the proof of transfer for our client from her [Bank] account and please confirm once funds received. It looks to me like the client

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

for some reason has converted EUR to GBP and sent you GBP? I will call you to see what you think and what can be done if she has done this in error.

Following a telephone call, OTAP told PCC that the estimated Euro equivalent if the funds were converted would be €109,700 and asked for instructions about how to proceed. PCC replied at 9.15am on 4 April 2025 (a Friday):

The client has asked if you can convert the funds back to EUR please (see attached for confirmation). I know the amount given yesterday was approximate so unless it's dropped significantly, can you arrange for it to be FX'd to EUR today and confirm how much you have.

The funds were not converted, and PCC sought an update on 8 April 2025. In the event, the money was converted back into euros on 11 April and €102,906 was paid into the fund.

Ms J said that the funds should have been converted back into euros a week earlier. Because of the movement in the exchange rate over that period, she calculated that she had been able to invest around €4,000 less than should have been the case.

OTAP said, in summary, that it was not responsible for Ms J's losses and that it had no control over exchange rate changes; it is not a foreign exchange business but carries out currency exchanges on a "best endeavours" basis. It did however offer Ms J £300 in recognition of the inconvenience to which she had been put.

Ms J did not accept OTAP's offer and referred the matter to CIFO.

I reviewed what had happened and indicated to OTAP that I thought it should have converted the funds back to euros sooner than it had done. By my calculations, however, Ms J had been able to invest some €1,995 less than should have been the case. I indicated that I was minded to make an award of that sum, together with interest. I indicated too that I thought OTAP should pay Ms J a further £300 in recognition of the inconvenience to which she had been put. That part of my recommendation was in line with OTAP's settlement offer.

Subsequent Submissions

OTAP did not accept my assessment. It said that the instructions from PCC (on behalf of Ms J) had put it in an unreasonable position, as it was not clear what was meant by a significant drop in the exchange rate. OTAP said it had sought confirmation from PCC but had not received it on 4 April 2025. If PCC had issued an unqualified instruction, OTAP said it would have acted on it.

Ms J indicated that she was prepared to accept my preliminary assessment.

As no agreement has been reached, I have reviewed the matter afresh.

Findings

I have considered all the available evidence and arguments to decide what is, in my opinion, fair and reasonable in the individual circumstances of this complaint. Where necessary or appropriate, I reach my conclusions on the balance of probabilities; that is, what I consider is most likely to have happened, in light of the evidence that is available and the wider surrounding circumstances.

This complaint has arisen because there was an error in the initial transfer of funds. They were converted from euros to sterling and so had to be converted back before they could be invested in the pension fund. It does not matter for the purposes of this decision who was responsible for that error – it is sufficient that OTAP was not at fault.

Ms J's complaint is rather that OTAP did not act appropriately to address the error when it came to light. It was in a position to do so because, until the pension fund was set up, it was in control of the investment funds.

I accept that OTAP is not a foreign exchange business which might be expected to carry out trades at short notice when instructed to do so. Nor would I expect it to speculate on exchange rate movements. On occasions, however, it will be in a position where it needs to convert currencies so that investment transactions can be completed.

Ms J's argument is, in summary, that OTAP received instructions to change the funds back from sterling on 4 April 2025. Over the following days, exchange rate movements meant that, when the money was converted, she received less than she would otherwise have done.

The main issue I have considered therefore is whether OTAP received clear instructions to convert the funds, as Ms J says it did. I have also considered whether, if it did, there was any reason not to follow those instructions.

In my view, the key communication here is the email sent on the morning of 4 April 2025, which I set out in the background above. It referenced the previous day's approximate euro equivalent of the funds received and asked that those funds be exchanged the same day – with the caveat that the exchange should not be made if the final amount had dropped significantly. I take that to mean a significant drop from €109,700. OTAP did not provide an expected figure if the conversion had been made on 4 April 2025, but published rates indicate that the euro increased in value against sterling by about 1% between 3 and 4 April 2025 – similar to the change between 2 and 3 April.

In my view, the email of 4 April gave clear instructions that Ms J wanted funds to be converted on the same day. PCC included the caveat in respect of any "significant" change, but I do not believe that made the instruction unclear or ambiguous. If OTAP had decided not to proceed with the conversion, it should in my view have been able to refer to a significant change in rates (whether actual or expected) which led it to think it needed further instructions. But, rather than checking how exchange rates were moving, it seems that OTAP decided to delay the conversion.

Further, I do not believe that there was any other reason for OTAP not to follow the instructions to covert the funds. In my view, it should have done so on 4 April 2025.

Remedy

I calculated in making my preliminary assessment of Ms J's complaint that she was able to invest €1,995 less than would have been the case if funds had been converted on 4 April 2025. That figure has not been disputed.

Had the funds been converted on 4 April 2025, Ms J would have invested them in the Utmost *OPES Spain – 2014* fund. She should therefore also receive interest on that sum at a rate equivalent to the return on the fund from inception until the date of payment. For the avoidance of doubt, if the fund has fallen in value, the payment should be reduced accordingly.

OTAP should also pay Ms J £300 in recognition of the inconvenience to which she has been put.

Final Decision

For these reasons, my final decision is that, to resolve Ms J's complaint in full, OTAP should pay Ms J:

- €1,995;
- interest on €1,995 at a rate equivalent to the investment return on the Utmost *OPES Spain – 2014* fund from 11 April 2025 until payment; and

– £300 in recognition of the inconvenience to which she has been put.

Michael Ingram
Ombudsman

19 January 2026