



Financial Services Ombudsman Scheme

Summary of the determination dated 27 September 2019 in respect of a complaint made to the Scheme regarding delays by the Provider in the endorsement of a Bond to make it UK tax compliant.

The Complaint

The Complainant, who had established a Bond whilst working and living abroad, returned to the UK to live in the summer of 2017. On return to the UK the holder of a Bond must ensure all assets held by the Bond are acceptable to HMRC. Any assets that are deemed 'offensive' by HMRC must be sold and the Bond endorsed before the anniversary of the Bond.

Aware of this and prior to their return to the UK, the Complainant contacted a UK based independent financial adviser ('IFA') for assistance in ensuring the Bond was tax compliant before the Bond anniversary which occurred just ten weeks after they returned. The Complainant completed the documents necessary to appoint the IFA as servicing agent. These documents also asked the Provider to inform the IFA when the appointment had been completed and send to them the Bond details. The Complainant believes this gave the Provider five and a half weeks to complete the appointment of the IFA, notify them of any 'offensive' assets, act on any switch instruction and complete the Bond endorsement before the anniversary.

The process was not completed in time for the anniversary of the Bond resulting in the Complainant receiving a tax bill of almost £60,000. The Complainant holds the Provider responsible for the delays and in settlement of their complaint request that the Provider reimburses them for the tax bill incurred.

Summary of the Life Company's response

The Provider stated that they did not receive the appointment documents from the Complainant's IFA until just two weeks before the deadline. It is not clear where the postal delays occurred. The process of appointing the IFA was completed within three days. From this point the IFA had access to the Bond via the Provider's online service where they could find out what assets needed to be sold and instigate instructions to that effect.

The Provider states they were not asked about whether the Bond held 'offensive' assets until a telephone call was made by the IFA just four days before the Bond anniversary. The Provider admits there were delays in answering this query but states that the delay did not have a material effect on the outcome. The Provider believes that because of the limited time available, even had they responded more quickly, the deadline would still have been missed.

Investigation

The Adjudicator established that the complaint revolved around avoidable delays on the part of the Provider in informing the IFA of an offensive asset held within the Bond. The Adjudicator concluded that the Complainant had acted reasonably and had no reason to suspect that because of a postal delay the available time would be so tight. The Provider was found to be slow in responding to some requests for information but these all appear to have taken place after the postal delay and the new IFA being appointed. The Adjudicator established that the Provider acted quickly to register the new IFA and from that point the Complainant's Bond could be accessed online. The IFA did contact the Provider in an attempt to obtain information about the Bond by telephone four days after their appointment and had this been available it would have left five or six days to identify any offensive assets, sell them and have the Bond endorsed.

Findings

The Adjudicator concluded the following:-

- The bulk of the delay was outside the control of the Provider as it appears to have been caused by the postal service between the Complainant's IFA and the Provider.
- The Provider could not supply information until the appointment of the IFA had been completed.
- The details of the Complainant's Bond were available to the IFA online as soon as they were appointed but this service was not used. At this stage there were eight working days left and it is possible the endorsement could have been achieved, but this cannot be established beyond doubt.
- The Provider could have also disclosed the Bond details to the IFA during the telephone calls but even if this had happened there were only five or six working days left and it cannot be proven that the required endorsement could have been made by this date.

Determination

The Adjudicator did not uphold the complaint and determined the matter in favour of the Provider.