DRN-4689470

The complaint

Miss C complains Hargreaves Lansdown Asset Management Limited (HL) provided mis-leading and insufficient information about the performance of a fund which she invested in through a Self-Invested Personal Pension (SIPP). She says she was given false reassurances about her exposure to the failing fund and this caused her losses.

What happened

The fund relevant to Miss C's complaint that she had exposure to through the multi-managed funds she was invested in was a specific fund called the Woodford Equity Income Fund (WEIF). This was managed by Neil Woodford, who left Invesco Perpetual in 2013 to set up Woodford Investment Management ("WIM"). The WEIF was launched in May 2014, with a £1 per unit fixed offer price until 18 June 2014. The Authorised Corporate Director (ACD) of the fund was Capita Financial Managers, later known as Link Fund Solutions.

The WEIF broadly tracked the benchmarks (albeit whilst providing a greater return and experiencing some more volatility) until the second half of 2017, when there was a significant fall which was not experienced by the benchmarks. It began to significantly underperform benchmarks from early 2018 and the performance followed a very different pattern to the benchmarks from early 2019 to the date of suspension.

Alongside this, the fund began to see significant outflows from mid-2017, falling from around £10bn of assets under management to around £3bn in two years.

In June 2019 the extent of those outflows - and the portion of the WEIF's assets which were not liquid - led Link to decide to suspend trading in the fund. Link removed WIM as the investment manager around this time.

The fund did not trade again. Later in 2019, Link decided to liquidate the fund. Investors have since received payments as and when the fund's assets have been sold. A small amount remains invested in assets which are not liquid i.e. cannot currently be sold. A scheme of arrangement between investors and Link has now been sanctioned by the court and will conclude the wind up of the fund with further distributions being made to investors who held units in the fund at suspension.

HL's communications relating to the WEIF

HL's relationship with WIM and the WEIF began prior to the fund's launch. HL met with WIM in early 2014 and decided to promote the WEIF to its customers and visitors to its website ahead of the fund's launch.

The WEIF was the subject of, or featured in, many communications from HL over the period from the fund's launch to its suspension. HL's communications relating to the WEIF can be categorised broadly as follows:

- Promotion of the WEIF at its launch by letter and through website articles and emails.

- Ongoing promotion of the WEIF through website articles (and, in some instances, emails alerting the recipient to the article).

- Updates on the WEIF through website articles (and emails alerting the recipient to the article).

- The inclusion of the WEIF in “best buy” lists – called the Wealth 150 (which had a subset of discounted funds called the Wealth 150+) and, later, the Wealth 50 both of which were shared on its website, through emails and via Wealth Reports, which were included in the Investment Times sent to its clients by post.

HLs Multi Manager Funds (MMF) also invested in the WEIF as a proportion of the make-up of the various funds. The MMFs invest in a wide range of underlying investments. They are managed in accordance with an investment mandate and seek diversification by investing in a collection of other funds, effectively acting as pooled investments. This means investors didn’t have direct exposure to the WEIF, but rather an indirect exposure through holdings in the relevant MMFs.

Miss C’s exposure to the WEIF

Miss C didn’t directly purchase any units in the WEIF, her exposure to the fund was though the investments she made to two MMFs.

She originally purchased units of the HL Multi-Manager Income & Growth Trust in her HL SIPP in April 2016. And she first purchased units in the HL Multi-Manager Special Situations Trust again in April 2016. Miss C continued to purchase further units in the two MMFs over the following years. Over this period the two MMFs had a proportion invested in the WEIF.

HL has confirmed on 31 May 2019, just prior to the suspension, the HL Multi-Manager Income & Growth Trust had a 12.81% exposure to the WEIF and the HL Multi-Manager Special Situations Trust had a 4.86% exposure. By February 2020 the WEIF exposure had dropped to 2.79% and 1.02% respectively.

Miss C’s complaint to HL and its response

In May 2020, Miss C raised concerns with HL about her exposure to the WEIF. In particular she was concerned about how HLs actions in respect of the funds contributed to losses on her overall investment.

HL looked into the complaint but didn’t think it had done anything wrong. In summary it said:

- It provided Miss C with an execution-only service, which meant that it was not providing investment advice or making personal recommendations.

- It provided fund factsheets for its MMFs which confirm the top ten holdings within each fund and the proportion these represent for the fund as a whole.

- The Wealth 50 (and the Wealth 150 before it) is a rigorously constructed list of funds, provided as a useful tool for clients to use in making decisions when choosing from the full range of funds available on its platform. And the same applies to selecting funds for its MMFs.

- It acknowledged the WEIF had experienced a difficult period of performance, but it had a reasonably held conviction in the prospects of the WEIF outperforming its benchmark.

- Regarding conflict of interests, it complied with its policies with respect to the WEIF and disclosed everything it should have. HL's MMFs range is operated by a separate group entity (Hargreaves Lansdown Fund Managers Limited), with the decision to invest and fee arrangements made entirely separate to its platform business.

- The MMFs Miss C invested in have been managed in accordance with the mandate of the fund, including each fund being sufficiently diversified.

- While it appreciated the concerns regarding the potential impact of the WEIF's suspension on the MMFs, the total invested in the WEIF is a relatively small proportion of the total value of its ten MMFs. The MMFs invest in a wide range of underlying investments, meaning that the negative impact of one of their investments underperforming or (as in the case of the WEIF) being suspended, should be limited.

- Investors with a direct holding in the WEIF have been unable to buy or sell any of their holding since the fund was suspended on 3 June 2019. However, the MMFs continued to operate as normal, so Miss C has always been able to buy or sell units in her MMFs as they had sufficient liquidity to meet requests.

- It issued regular communications to investors with a direct holding in the WEIF but, while this information was also published on our website, it did not feel the need to also issue these to indirect investors. Instead, it published updates to its MMFs explaining the implications of the underlying WEIF holding.

Miss C remained unhappy and the complaint was referred to this service for an independent review.

One of our investigators looked into the complaint but didn't consider it should be upheld. In summary he said:

- He was satisfied HL provided Miss C with an execution only service. It didn't provide personalised investment advice and it didn't exercise discretion or manage her investments. This meant it was Miss C's responsibility to determine whether the MMFs she invested in were suitable for her needs.

- She didn't invest directly into WEIF but was exposed to it via HL's MMFs. The WEIF only made up a small portion of the funds. The fund managers rebalance the underlying investments so, if a particular investment is underperforming, they will reduce the exposure of that investment within the fund. This is what the HL fund managers did as by October 2021 the WEIF made up 0.59% of the Income & Growth Trust and 0.15% of the Special Situations Trust.

- While the value Miss C's investments fell as a result of the WEIF suspension, HL didn't make any guarantees about fund performance. Our service has considered the communications about the WEIF over time, which conclude that information provided by HL was clear, fair and not misleading.

Miss C didn't agree and asked for an ombudsman's decision. She raised points about how the MNFs were advertised and HLs obligations towards her.

What I've decided – and why

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

I understand Miss C's strength of feeling on the complaint and why she considers HL is responsible for the losses she has suffered due to her exposure to the WEIF. However, for the reasons I set out below, I'm not persuaded she was misled into investing (or remaining invested) in the MMFs that had exposure to the WEIF – and consequently, I'm satisfied the issues arose due to the poor performance of the investment and its underlying holdings, which HL had no responsibility for.

Firstly, I note HL has explained it provides Miss C with an execution-only service in respect of her SIPP. I also haven't seen that Miss C did receive personal advice to invest in the WEIF from HL, either directly or indirectly through the MMFs she holds funds in. This means there was no ongoing obligation on HL in this respect in ensuring the suitability of the investments she held.

It is important at the outset to note that Miss C didn't invest directly in the WEIF. Her exposure to the WEIF is through the units she purchased in the HL Multi-Manager Income & Growth Trust and the HL Multi-Manager Special Situations Trust. But I acknowledge she has suffered an impact from the suspension and demise of the WEIF through this indirect exposure.

The design of HLs MMFs mean that investors are able to diversify their investments by spreading their monies across a number of different funds that are managed on a discretionary basis by HL Fund Managers (HLF). A key benefit to investing in this type of fund of funds is that you are not overly exposed to one particular fund should something go wrong, like it did with the WEIF. I think it is also worth noting, that decisions to invest in the WEIF were made by HLF, not by HL Asset Management (who this complaint is about). Each MMF has specific investment objectives and an investment policy which the fund manager follows by selecting funds to invest in to achieve the objective.

Whilst clearly the performance of the WEIF was disappointing, and its eventual suspension and liquidation was unfortunate, the reality is that these are performance considerations that could apply to almost any collective investment predominantly invested in equities. I'm not persuaded it would be fair and reasonable to hold HL responsible for not foreseeing the suspension and subsequent liquidation of a fund it had no involvement in managing.

I acknowledge Miss C's comments that HLs website describe the MMFs as "Professionally managed" and "a collection of what we believe are the best funds…managed by our experienced team." She also thinks that following the suspension of the WEIF, HL should have been communicating with those invested in the MMFs in the same way it communicated with investors who held direct investments in the WEIF.

Shortly before Miss C invested, the February 2016 fund factsheet for the Income and Growth Trust MMF showed the WEIF holding as 18.3% of the total holdings, which was higher than the exposure at the time the fund was suspended (when it was 13%). It explained the fund invested in a core list of favoured UK equity income funds and would invest a minimum of 80% in UK equities. Under the risk reward profile of the fund, among other matters, it says the fund 'may invest in smaller companies, which are more volatile and sometimes more difficult to trade than larger companies'.

The February 2016 fund factsheet for the Special Situations Trust MMF showed the WEIF holding as 9.1% of the total holdings, which was also higher than the exposure at the time the fund was suspended (which was less than 5%). It stated the aim of the fund was to achieve capital growth over the long term by taking equity risk and would invest a minimum of 80% in equities and will be diversified by geographic region. The risk summary also confirmed it may invest in smaller companies, which are more volatile and sometimes more difficult to trade.

Considering the level of exposure before suspension, this doesn't raise concerns about the MMFs being managed outside of the relevant mandates. In my view, the WEIF largely matched the above descriptions – to varying degrees which I'm not persuaded I need to look into further here. When looking at investment losses arising from holdings in MMFs (which contain a combination of a number of funds), it isn't usually fair and reasonable to focus on the one holding that's suffered a loss, ignoring the remainder of the funds. In Miss C's case the two MMFs she is complaining about contained a multitude of different assets. The two funds which gave Miss C her exposure to the WEIF had less exposure to the WEIF when it was suspended than when she first invested. In my view this exposure to one fund wasn't significant, so doesn't lead me to have concerns about the funds not being operated as it was described when Miss C first invested. And unlike other direct investors, when the WEIF was suspended, investors in the MMFs could still trade and access their investments. For all these reasons, I'm therefore satisfied that the MMFs Miss C invested in remained consistent with the stated aims, objectives and declared asset mix, despite the performance issues suffered by the WEIF.

Miss C says there is a conflict of interest due to the HL personnel involved in managing the MFFs and also being HLs investment director. She doesn't think the investment process was sufficiently independent and HL had performance concerns and disinvested its own shares. I have not seen sufficient evidence to show HL's decision to continue to promote the WEIF (i.e. by continuing to include it on the Wealth List) was not acting in its customers best interests. From the evidence, HL was upfront about the challenges relating to the WEIF – including its performance. And it took the decision to continue to promote the WEIF having challenged Woodford and received reassurances for the potential recovery in performance. I'm satisfied from the evidence available it was considering what was best for its clients when doing so.

As Miss C didn't invest directly, HL didn't send her specific communications about the WEIF and its performance over the period between launch and suspension. I don't think it would be reasonable to expect HL to provide specific communications in the way Miss C suggest about the WEIF to her, when she was invested only indirectly with a relatively small proportion of her funds exposed. It is unclear if she read them, but Miss C would have had access to the general communications HL made on its website about the WEIF.

And in any case, as the investigator has explained, I'm satisfied that HLs communication in respect of WEIF met its regulatory obligations. Broadly this means I find HL's wider communications during the relevant period regarding the WEIF were factual and gave a balanced view of its assessment of the fund.

There were periods between 2016 and 2019 when HL raised concerns with Woodford, for example around the level of unquoted stock in the WEIF, but it explained these concerns in its public updates or Wealth Lists – at the same time, it held the view that whilst there were some concerns in the short term, over the long term the WEIF would end up being a good investment for its clients. HL was entitled to hold that view, and I've seen insufficient evidence that it came to that conclusion unreasonably or in a way that was not genuinely based on its assessment of the WEIF and its future prospects. Whilst I appreciate HL's view has turned out to be wrong, largely as a result of the liquidation of the fund, which was not something it had anticipated, I don't consider that means its communications were not clear, fair and not misleading.

I appreciate my conclusions will be disappointing to Miss C and I understand why she feels HL ought to be responsible for declines in the value of her investments. But I'm satisfied that any losses she has experienced were not caused by something HL did or didn't do or because it misled her in anyway. I'm satisfied the losses she is concerned about were caused by the performance of the underlying investments in the WEIF (which she was exposed to through the MMFs).

My final decision

For the reasons I've given, I don't uphold Miss C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 19 September 2024.

Daniel Little
Ombudsman