

## **The complaint**

Mr P complained about Interactive Investor Services Limited (Interactive). He said it shouldn't have transferred one of his investments from his individual savings account (ISA) to his trading account. He said it was clear that it was his intention to transfer this investment from his ISA to a third-party ISA account.

Mr P said Interactive made a mistake and this has been to his detriment because he has lost tax efficiency in relation to his investment. He would like Interactive to put things right.

## **What happened**

Mr P had a stocks and shares ISA account with Interactive. Mr P said his complaint is about shares he held in a company that was called Metal Tiger (MTR), that he held in this account.

Mr P explained that on 2 March 2023, Metal Tiger notified the Alternative Investment Market (AIM) that it would be cancelling its listing on 31 March 2023. He said Metal Tiger told him the shares he held would be converted to chess depository interests (CDI) which would be tradeable solely on an Australian exchange. It was also changing its company name to 'Strata Investment Holdings' (STR).

Mr P said he was notified by Interactive that the new investment was not eligible to be held within his ISA. He said he was told by Interactive that it would remove his investment from his ISA and put them in a trading account, it would open for him.

Mr P said he contacted another broker, a third party, who told him that it would be able to hold the investment, in an ISA. Mr P said he notified Interactive that he would like to transfer his investment from its ISA to the third-party ISA account. He said he did this on 29 March 2023.

Mr P said the shares were converted on 20 June 2023 into CDIs. He said instead of being able to transfer this converted investment into the third-party ISA account, Interactive removed them and put them into his trading account. He said he then at this moment, lost the tax efficiency of his investment as they were no longer within an ISA wrapper.

Mr P said Interactive removed his investment from the ISA account in error and he has lost out because of this. He said it ignored his clear intention to transfer his CDIs to a third-party ISA account. He complained to Interactive about this.

Interactive said in response that it received a transfer out form on 28 April 2023 from the third-party requesting transfer of MTR shares from its ISA into their custody. It said it provided a valuation to the third party on 2 May 2023.

Interactive said following this, it received a response from the third party informing it that the stock wasn't transferable, therefore the third party cancelled the transfer. It said it looked to see if it could transfer the shares through the Australian exchange to the third party, but it said it couldn't because the shares had already been delisted. It said it didn't think it had done anything wrong in relation to the cancelled transfer request from the third party.

Interactive said it gave Mr P notice on 16 March 2023 that MTR shares were being delisted and that any shareholdings in his ISA account would be transferred into a trading account 30 days after 1 May 2023. It said it then proceeded to do this. Again, it said it didn't think it did anything wrong here.

Mr P was not happy with Interactive's response. He provided dates and details about when he contacted Interactive to ask it to transfer his MTR shares and then latterly his CDIs out of his ISA to the third-party ISA. He said it was his understanding that once his MTR shares had been converted, that they would then be transferred over. Mr P pointed to Government rules on ISAs and in particular when an ISA provider makes a mistake that HMRC can allow reinstatement where an error has occurred.

Mr P did not agree with what Interactive said and referred his complaint to our service.

An investigator looked into Mr P's complaint. When she gathered information from Interactive, it said it would offer a £150 payment to Mr P. It said this was because it had not been clear with him about when the transfer had been cancelled and its communication with him. It said it could have done better in interpreting the rules and then communicating what was happening with Mr P.

The investigator said she wasn't going to uphold Mr P's complaint. She felt Interactive's offer of £150 to be fair and reasonable. She said she could see the third party cancelled the initial transfer request as it couldn't accept the delisted shares at that moment in time. She said she didn't think Interactive had done anything wrong with the initial transfer. She said Interactive made it clear from the beginning that the shares in MTR would not be able to be held in Mr P's ISA. She said she didn't think it was wrong for Interactive to transfer Mr P's holding to a trading account.

Mr P did not agree with the investigator and said he had not received any offer of compensation from Interactive. He added that both Interactive and the third party seemed willing for the transfer to take place, but then Interactive transferred the CDI's to a trading account.

Mr P said Interactive interpreted the HMRC ISA guidelines that the CDIs were not eligible rather than they were informed they were not by HMRC. Mr P said it was always his clear intention to transfer his ISA before Interactive had a chance to eject his CDIs from his ISA wrapper.

The investigator issued a second view and reiterated why she felt the CDIs were not ISA qualifying. She outlined how the initial transfer broke down and then was cancelled. She explained what Interactive's offer was for and felt it was fair.

Mr P is not in agreement with the investigator's view. Mr P's complaint has been passed to me, an ombudsman, to look into.

### **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 have independently reviewed Mr P's complaint and have broadly arrived at the same outcome as the investigator. I will explain why.

After reading through everything submitted to our service, I think the crux of Mr P's complaint, is that he was unable to transfer his MTR shares and then latterly his CDIs held in

his Interactive ISA account to a third-party account. This led to Interactive transferring his CDIs to a trading account and him losing the tax efficiency that his investment held when it was contained within his ISA tax wrapper.

I looked at the circumstances around the corporate action and Interactive's decision that the CDI's were ineligible for Mr P's ISA. I then looked into Mr P's transfer request that he made on 29 March 2023. I looked into Interactive's communication and then finally it transferring Mr P's CDIs from his ISA to a trading account.

### **The corporate action**

On 2 March 2023, MTR notified its shareholders of its intention to delist from the AIM market in the UK and only list on the Australian exchange. It had up to this point been listed on both. It said all UK shareholdings would be converted into CDIs and then could be traded on the Australian exchange. MTR planned to carry out this corporate action and delist from AIM on 31 March 2023.

I can see Mr P sought clarification from Interactive about whether he could hold CDIs in his ISA. He received confirmation from Interactive on 16 March 2023 that it would not be able to hold his new investment within his ISA. Mr P then sought clarification from a third party, as to whether it would be able to hold the CDIs within his ISA account that he held with it. He said he received confirmation from it that he could.

There has been much discussion up to now between Mr P, Interactive and the investigator about whether or not the CDIs were eligible or not to be held in an ISA as a qualifying investment and how HMRC guidance is interpreted. I don't think I need to make a finding on this, other than to say, Interactive interpreted HMRC guidance provided and decided that the converted CDIs Mr P was due to receive, were not eligible to be held in an ISA as a qualifying investment. So, it decided that Mr P's CDIs could not be held in his ISA account.

In the circumstances of this complaint, I don't think Interactive did anything wrong or made any mistakes when it decided Mr P's CDIs were not eligible to be held in his ISA account as a qualifying investment as was its right to decide as the service provider. It interpreted the rules, decided it wouldn't hold the investment and then notified Mr P of this.

### **Mr P's transfer request**

Once Mr P received clarification from Interactive, he decided to put in a transfer request. By this stage though, there was not a lot of time left before the corporate action was taking place on 31 March 2023. Mr P tried to initiate the transfer on 29 March 2023 and so approached the third party as I think was the correct process, to complete a transfer form.

The third party sent Mr P a message when it sent the transfer form saying that it would be unlikely that the transfer would take place before the corporate action event, but it supplied the transfer form anyway and Mr P completed it and sent it back.

Mr P put in a completed transfer form in with the third party, signed and dated on 29 March 2023, that he would like to transfer his shares in MTR held in his ISA with Interactive over to it.

Mr P also notified Interactive that it was his intention to transfer his shares of MTR out to the third party on 29 March 2023. But I don't think Interactive were wrong not to do anything further at this stage, seen as it hadn't received the transfer form from the third party yet, and as far as I see it, the request had to come from Mr P's new ISA provider.

The corporate event date given was 31 March 2023 and it was from this date that Mr P's shares in MTR were delisted from AIM. I have read an email exchange between interactive and the third party and can see that neither party discussed the transfer before the corporate action event date. This though is not surprising though considering how little time the parties had to attempt a transfer here.

I can see that there were attempts between them to make the transfer happen after the corporate event date, but this was not able to be done. This was most likely because the shares the parties were trying to transfer, had been delisted from the AIM exchange and so any attempt from either party to organise the transfer, would most likely not have been viable.

I can see on internal screenshots from Interactive's system, that it officially received the transfer form completed by Mr P on 28 April 2023. After the transfer form was logged on the system, Interactive sent a valuation over to third party. And then the same issues arose: the transfer could not be completed. I have seen an email from the third party dated 3 May 2023 where it said, "we have cancelled the transfer as the stock is not transferrable via crest?". I have also seen an email from Interactive on 5 May 2023 where it stated it had closed the transfer on its side.

Both parties have since explained that the transfer couldn't take place as they were unable to do so over the system they tried to use. They tried to use 'CREST' a UK based transfer system. Again, it is most likely that they were unable to do this, as the MTR UK listed shares had been delisted. The transfer couldn't have taken place for this reason, and they also wouldn't have been able to carry out the transfer between them using the Australian system for doing so, because the investment at this stage hadn't been converted to an Australian investment or CDI.

So, when I consider all of this, I don't think I can hold Interactive responsible for the breakdown and cancellation of Mr P's transfer request. I can see that even though Interactive had been made aware by Mr P of his intention to transfer his MTR shares out to a third party, it hadn't been contacted by the third party until after the corporate action had taken place. So, when it and the third party attempted to make the transfer, the MTR shares had delisted, so it couldn't be completed using the UK system to make transfers. And the shares hadn't been converted at this stage, so the parties couldn't make the transfer by another means through the Australian market either. I don't think, when I consider this, that Interactive are responsible for Mr P's transfer request not happening and so again, I don't think it had done anything wrong.

### **Interactive's communication with Mr P after the cancelled transfer**

Interactive has told our service that it was not clear with Mr P after his transfer request was cancelled, about what had happened. I can see that it had sent several messages to Mr P, most in response to him requesting an update. I can see that it was updating him on what it and the third party could do, to make a transfer happen. It updated him for example that the parties would have to wait until after the investment had been converted to CDIs before a transfer could be attempted.

I have read all of these messages, and I agree with Interactive when it said it was not clear with Mr P about his transfer request. I don't think its messages to Mr P were clear enough about what the current status of his transfer request was, that is that it had been cancelled.

Furthermore, I don't think Interactive were clear with Mr P that any future transfer would not be guaranteed or what the process was here. After all, Mr P would need to put in a new transfer request to a new ISA provider and that provider would again need to establish

whether it would be prepared to hold the investment in an ISA. I appreciate that Mr P says the third party he contacted was prepared to accept the investment, but that was in relation to his transfer that was requested on 29 March 2023. The transfer process needed to start again, due to the breakdown of the last one and he would have needed to initiate a transfer with the new investment on the form instead. So, again I don't think there could have been any guarantees that this transfer process was going to be able to take place, or a guarantee that either party would be able or willing to carry it out.

Mr P has told our service that Interactive sent mixed messages to him during this period and again, after reading the emails he received, I agree with this. Interactive could have been clearer with him, regarding everything I have just said and so I think it is fair and reasonable that it has offered to pay him £150, due to the distress and inconvenience it has caused him in this regard.

### **The transfer of Mr P's CDIs from his ISA account to a trading account**

On 20 June 2023, Mr P was notified by Interactive that his MTR shares had been converted to CDIs and I can see he was quick to act. He sent a message to Interactive about this. He received a response from Interactive where one of its representatives said "Perfect, please can you ask {third party} to send this to {its email address} as a priority, there is no queue for transfers being logged so this will be logged the same day".

I can see Interactive were asking Mr P to contact the third party as Mr P's new ISA provider, to initiate a new transfer. As I mentioned earlier, it is my understanding that any new request needs to come from the new provider, so I don't think Interactive were able to act on Mr P's request, rather it needed to wait for the third party to contact it about this.

On 22 June 2023, Interactive transferred Mr P's CDIs out of his ISA account and into a trading account in his name, as it said it would do in an earlier notification. Interactive had sent notification from the outset on 16 March 2023, that it was its intention to transfer the CDIs out of Mr P's ISA account on or after 1 May 2023, due to the decision it made that it wasn't an ISA qualifying investment.

There was no transfer request pending here and the previous one had been cancelled by the parties from 3 May 2023. So, I don't think Interactive did anything wrong when it went ahead and did this. It decided the investment was not ISA qualifying, so after giving Mr P notice about this, it went ahead and did what it said it was going to do. I don't think on balance, that it was being unfair when it took this action.

In conclusion, I can understand why Mr P feels there has been an error here by Interactive. It was his understanding that once his MTR shares had been converted, there would be a transfer from his existing ISA account with Interactive to his third-party ISA account. But I think that error came about because Interactive had not explained what happened with the transfer being cancelled or its stance properly to Mr P.

In reality, the corporate action carried out by what was MTR, was such that when Mr P put in a transfer request to his new ISA provider, the corporate action was only a couple of days away from being implemented. So, there was not enough time for the parties to transfer the MTR shares over. The transfer then was cancelled by the parties. Mr P had to put in a new transfer request regarding his new converted investment and there were no guarantees that this transfer would have been able to take place. Then Interactive transferred Mr P's CDI's out of his ISA account and into a trading account, because it had decided it wasn't a qualifying investment, as it said it would.

I don't think, on balance, I can hold Interactive responsible for what has happened here, and I don't think it has acted unreasonably in the actions it has taken with regards to Mr P's investment. But I do think it has caused Mr P distress and inconvenience by not explaining what had happened, so it does need to pay him £150 as it has offered to do.

I know Mr P will be very disappointed with my decision and I empathise with him. I do acknowledge what he has said to our service and can appreciate how frustrated he has been with what has happened. But in all the circumstances, I do not uphold his complaint about his loss of tax efficiency in his STR CDI investment.

I do award Mr P £150 and direct Interactive Investor Services Limited to pay this amount to him.

### **My final decision**

Interactive Investor Services Limited has made an offer to pay £150 to Mr P and I think this offer is fair in all the circumstances.

So, my decision is that Interactive Investor Services Limited should pay £150 to Mr P, if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 2 October 2024.

Mark Richardson  
**Ombudsman**