

# Foreign currency transfers between accounts with or without foreign exchange transactions

Topic: **Miscellaneous** Case number: **2017/27**

The client, residing abroad, had a US dollar (USD) account and a pounds sterling (GBP) account with the bank. According to him, shortly before the vote on Brexit was held, he phoned his bank advisor and asked him, quite clearly, to transfer 900,000 GBP from the GBP account to the USD account. Approximately two months after processing this instruction, when the vote in favour of Brexit had taken place, the client criticised the bank for having, undoubtedly, performed an internal account-to-account transfer but without having performed the foreign exchange transaction that should have been automatically associated therewith. The resulting exchange rate loss was calculated at approximately 120,000 USD. The bank refused to meet the client's request to bear the entire loss but offered to provide him with compensation of 15,000 USD. The client accepted this offer on the Ombudsman's recommendation.

The client, residing in a far away country, had a very diversified relationship with the bank since he held multiple currency accounts with it along with a broad investment portfolio. He also maintained close personal contact with his bank advisor by phone. On 8 June 2016, in anticipation of the imminent vote by the British public on the United Kingdom's exit from the European Union (Brexit), the client ordered his advisor, by phone, to transfer 900,000 GBP from his GBP account to his USD account. In the same conversation, he told the advisor that he also intended to issue a payment instruction in USD to transfer a similar amount to another bank. According to the client, although he received email confirmation of his internal account-to-account transfer instruction immediately, the associated foreign exchange transaction, namely the conversion of the GBP to USD, was only done after he submitted his complaint, in late August 2016. As a result of the vote for Brexit and the resulting less favourable exchange rate, the client incurred a loss of approximately 120,000 USD. In his view, this was a manifest error on the part of the bank hence his request for the bank to bear the loss. Since the bank only offered to pay him 15,000 USD however, the client contacted the Ombudsman. Although the Ombudsman felt certain points in the client's version were unclear, the client's main request seemed to have some basis. He therefore felt that the bank should provide an explanation and so asked it for a statement of position.

From the bank's statement emerged that the client, extremely active, had a complex account structure, consisting in particular of primary accounts and sub-accounts, sometimes held in different currencies simultaneously. The client requested this expressly in order to separate his various transactions better. The GBP account in question was a sub-account and it was the advisor's understanding that the account-to-account transfer ordered was to be made to another GBP sub-account of the primary account, to which the primary USD account was also linked. The bank further maintained that the client had never mentioned the future vote on Brexit as the reason behind the transfer. Immediately after their telephone conversation, and given previous similar instructions, the advisor wrote an email to the client asking him to specifically confirm, electronically, the instruction before it was processed and, at the same time, to specify whether or not he also required a conversion into USD. The client responded by email the same day. He only confirmed the account-to-account transfer however without mentioning the issue of converting to USD. As a result the sum was

not converted to USD when transferred but only when the client sent an email complaint and gave clear instructions, in late August 2016, and at the exchange rate valid at that time. The bank also explained that, on 20 June 2016, in other words four days prior to the vote on Brexit, the client had asked it to send him current statements for all of his accounts electronically. The bank fulfilled this request that same day. Thus, the bank further claims, the client could have (and, logically, should have) realised that the conversion had not been done prior to the vote on Brexit. He did not respond however until late August 2016. The bank therefore implied that the client had waited for the change in rates before deciding to submit a complaint. That is why it refused to increase the offer of 15,000 USD that it had submitted to the client directly.

In this case, the Ombudsman found himself faced with a complex structure of multiple primary accounts and sub-accounts, sometimes held in parallel in multiple different currencies, an unusual situation and one that was difficult to understand from the outset. He felt that such a complex account structure and the choice of words used by the parties in their email exchanges and, presumably, their telephone conversations, were likely to give rise to potential misunderstandings. In fact, the Ombudsman felt that the bank could have expected that an immediate conversion into USD would also have been required given that the instruction was issued a few days prior to the vote on Brexit, and that a larger transfer of USD to another bank was mentioned. Following the client's somewhat vague response, a simple telephone call from the advisor, who was aware of the upcoming vote, would have enabled final clarification of the situation. On the other hand, the advisor's written request did state, in a clear and understandable manner, the need to confirm both the transfer itself and the conversion and the client's response was incomplete. Finally, according to the Ombudsman, the key element turned out to be the receipt by the client, a few days prior to the vote being held, of statements for all of his accounts, as these statements clearly showed that the bank had not performed any foreign exchange transaction. Given that these statements had been provided at the client's express request, he was unable to claim that he had not received them. In view of the delay with which the client exercised his duty to monitor and complain, and the bank's credible allegations in which, due to the complex structure of the accounts, confirmation had already been requested several times in the past for internal account-to-account transfers in foreign currencies, which were done separately, the Ombudsman concluded that the client had contributed significantly to the loss incurred. It was also not possible to definitively rule out the suspicion raised by the bank, who implied that this seasoned investor had purposefully waited that long before submitting his complaint so he could observe the GBP/USD exchange rate changes first. Having reviewed the full circumstances in the case, the Ombudsman did not find any convincing arguments which would enable him to obtain a more generous offer from the bank. In his opinion, the client should have intervened with the bank as soon as he received the account statements. He therefore advised the client to accept the bank's offer and the latter did so without further comment.