

Loss with a call warrant

Topic: **Abuse and fraud** Case number: **2021/12**

The client had acquired call warrants on shares in X. AG, with which he suffered a total loss. He then approached the issuer of the call warrants and argued that the terms and conditions of the warrants should have been adjusted because X. AG issued new shares during the term of the call warrants and its business activities were severely affected by the Corona epidemic. He therefore demanded from the issuer the amount he had invested in the call warrants. The issuer replied to the client that neither event had required adjustments to the terms of the call warrant and gave detailed reasons for this. He rejected the client's claim. The client disagreed with the issuer's response and referred the case to the Ombudsman. The Ombudsman considered the issuer's response to be correct and could not identify any misconduct on the part of the issuer, which he informed the client of in a final notice.

The issuer explained to the customer that the share of X. AG had clearly not reached the strike price on the expiry date of the call warrant, whereupon the call warrant had expired worthless. In fact, X. AG had issued new shares during the term of the call warrant. However, these had been placed directly on the market. The existing shareholders had not received any subscription rights. Therefore, the terms of the call warrant did not have to be adjusted. Otherwise, the holders of the call warrants would have been favoured over the shareholders, which would not have been appropriate. The strike price had not been reached due to market conditions, which were regularly influenced by various factors. The market risks were usually borne by the investors, who would also profit from rising prices when market conditions were favourable.

The client then submitted the case to the Ombudsman, stating that as a buyer of the call warrants, he had accepted contractual terms from the issuer that would have required the issuer to adjust the strike price in the situation described. He did not attach these terms to his complaint or describe their details. The Ombudsman told the client that he considered the issuer's position to be comprehensible and conclusive. In his view, there were no convincing arguments that the issuer should have adjusted the terms of the call warrant in the present case. As no misconduct on the part of the issuer was apparent, mediation efforts had to be judged futile. The Ombudsman closed the case with this notice.