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**The Ombudsman's Case of the Month
September 2017**

Failure by a firm to update client addresses may prove costly

Some people choose to invest in SOFICAs, which are companies that provide funding for the film and audiovisual sector. While an investment in a SOFICA has clear tax benefits, it is not risk free. In fact, you could lose your entire outlay. To guard against such an outcome, some SOFICAs have clauses offering the chance to redeem units early at a guaranteed price, subject to certain conditions.

The facts

On 29 December 2006, Mr A paid €18,000 to purchase 90 units in a SOFICA from his bank.

In November 2015, after learning that some SOFICAs had clauses giving investors the opportunity to redeem their units at a guaranteed price, Mr A contacted his bank to ask if such a clause existed and was told that it did.

However, his redemption request was refused on the grounds that it had been submitted too late, since the window for exercising the options was open from 1 January to 30 June 2015.

When contacted by Mr A, the management company for the SOFICA said that a letter had been sent to him in December 2014 to tell him about the option exercise window. But Mr A also learned that the letter had been returned to the company because “the recipient did not live at the indicated address”.

Mr A had indeed moved in 2008, but he had provided notification of his change of address to the bank from which he bought the SOFICA units. Since that time, he had received letters sent by the bank to his new address.

After his redemption request was refused, Mr A felt that he had suffered a loss because by not getting the letter he had been unable to exercise his option.

Mr A made an unsuccessful request for compensation to his bank before turning to me.

The analysis

I began by carefully reviewing the SOFICA’s prospectus. I learned that a third company had made an irrevocable commitment to buy all of the SOFICA’s units at a set redemption price and that investors could exercise this redemption option by sending a registered letter with acknowledgement of receipt to the headquarters of the SOFICA between 1 January and 30 June 2015. The prospectus also said that investors should be informed by letter in December 2014, or one month ahead, that the redemption window was opening.

I then contacted the bank that distributed the product to find out why the management company responsible for notifying SOFICA investors had not been informed about Mr A's change of address, since I had several letters showing that Mr A had informed the bank about his move.

The fact that the information had not been provided resulted in a loss for the investor, who was unable to take advantage of the guaranteed redemption price of €150 rather than the liquidation price of €107.

The recommendation

Since the bank that distributed the product was unable to prove that it had sent Mr A's new address to the management company, at my suggestion it made a gesture of goodwill and compensated Mr A in the amount of his lost profit, namely €3,870 ((150-107) * 90).

The lesson to be learned

This case highlights the importance for firms that distribute such products to update client address lists when they market products managed by other entities and that require letters to be sent.

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[The AMF Ombudsman]