

Before the Arbiter for Financial Services

Case ASF 222/2023

SK LLP

(‘SK LLP’ or ‘the Complainant’)

vs

XNT Limited

(C 52182) (‘XNT’ or ‘the
Service Provider’)

Sitting of 14 March 2025

The Arbiter,

Having seen the **Complaint** made by *SK LLP*, (a limited liability partnership based in UK)¹ against *XNT Limited*, the latter being an investment services provider licensed by the *Malta Financial Services Authority*.²

The Complaint, in essence, relates to the claim that the Service Provider failed to execute the request made by the LLP for the investment certificates in respect of its fund investments, which XNT held on its behalf, to be transferred to another financial entity.

It was also claimed that the costs of the investment certificates and the calculation of commissions were displayed and calculated incorrectly on XNT’s online account.

¹ <https://find-and-update.company-information.service.gov.uk/company/OC3XXXXXX>

² <https://www.mfsa.mt/financial-services-register/>

*The Complaint*³

In its Complaint to the *Office of the Arbiter for Financial Services* ('OAFS') of 29 December 2023, SL, a Designated Member of SK LLP⁴ explained that since 26 July 2023, the Service Provider has not executed the LLP's request to transfer the investment certificates of certain investment funds held with XNT to another financial institution.

The Complainant attached copies of the Securities Transfer Requests that the LLP made to XNT during 26 July 2023 and 4 September 2023, with particular reference made to its request dated 26 July 2023.⁵

It was further pointed out that the cost of the investment certificates of the investment funds owned by the LLP were being incorrectly displayed in the online account held with XNT and even the calculation of commissions was incorrect.

The Complainant submitted that XNT had not informed it of the reasons why it did not execute the requested transfer.

Remedy requested

The Complainant initially requested that XNT executes the transfer of its investments to another financial institution as indicated in the Securities Transfer Request of 26 July 2023. It also asked for XNT to correctly calculate the commissions for storing the securities by basing the calculations on the correct value of the instruments as published on the *Nasdaq Baltic Stock Exchange*.⁶

In a communication of 29 August 2024, the Complainant requested XNT 'to return to us the storage fee for the period from 26.07.2023 to 02.09.2024 in the amount of USD 2680.45 and Euro 102.33'.⁷

In its final submissions of 28 November 2024, the Complainant changed its request and asked the Arbiter to '*consider and make a decision obliging XNT Ltd*

³ Complaint Form on Page (P.) 1 - 6 with extensive supporting documentation on P. 7 - 77

⁴ <https://find-and-update.company-information.service.gov.uk/company/OC3XXXXX/officers>

⁵ P. 3, 20 - 22 & 41

⁶ P. 4

⁷ P. 108

to pay us the market value of the securities, since XNT Ltd and their trusted structure Macte Invest FM AB have appeared to be incapacitated and unable to transfer our securities due to the imposition of restrictions for reasons beyond our control on activities on the Nasdaq CSD. We propose to leave the securities to XNT Ltd, which they will be able to sell at the market price after resolving all the difficulties associated with Nasdaq CSD'.⁸

In the same submissions of 28 November 2024, the Complainant also asked the Arbitrator 'to consider the possibility of imposing a penalty on XNT Ltd in our favor in the amount of double the discount rate in effect at the place of registration of XNT Ltd (Malta) for the period from 26.07.2023 to 17.10.2024'.⁹

Having considered, in its entirety, the Service Provider's reply,¹⁰

Where the Service Provider explained and submitted the following:

1. That their client, *SK LLP*, had opened an account with XNT as per the Account Opening Confirmation form attached to its reply;¹¹
2. That the client's financial instruments are held at *MACTE Invest*, under XNT's client-designated account;¹²
3. That on 7 July 2023, *MACTE Invest*, XNT's counterparty, sent a termination letter to XNT as per the notice/email of Agreement Termination;¹³
4. That on 26 July 2023, the client requested to transfer the securities to *Corner Bank AG* as per the Securities Transfer Request.¹⁴ The financial instruments that the client wanted to transfer were the following:
 - i. LV0000400315.OEF *Ablv Emerging Markets Usd Bond Fund*
 - ii. LV0000400331.OEF *AB.LV High Yield CIS USD Bond Fund*
 - iii. LV0000400802.OEF *ABLV Global Corporate USD Bond Fund*

⁸ P. 111

⁹ *Ibid.*

¹⁰ P. 83 with attachments on P. 84 - 99

¹¹ P. 84 - 85

¹² Arbitrator understands that *MACTE*, a financial brokerage company, were acting as custodians of the securities in question.

¹³ P. 86 & 87-88

¹⁴ P. 89

iv. LV0000400935.OEF *ABLV Emer Markets Corporate USD Bond Fund*

The client had provided confirmation of the account opened with *Corner Bank*.¹⁵

5. That XNT tried to transfer the financial instruments according to the client's request but MACTE declined as they stated that they cannot accept any orders including transfer out requests due to the termination letter referred to earlier;¹⁶
6. That during 3 August 2023 and 7 August 2023, XNT reached out to the party recommended by MACTE, the *Nasdaq CSD Lithuanian Branch* to ask for the update/way to transfer the financial instruments out of MACTE, unfortunately without success as per the communication exchanged with Nasdaq CSD.¹⁷
7. That XNT continued to communicate with both MACTE and Nasdaq CSD Lithuanian Branch in an attempt to find a solution and transfer out the financial instruments;
8. That on 27 December 2023, MACTE informed XNT that XNT could provide the financial instruments *'to the respectful SSIs of the own clients account for the asset transfers'*.¹⁸ MACTE informed that it could not transfer the financial instruments to the counterparty recommended by the client.¹⁹
9. That as to the costs for the investment services, a Report was prepared for the period 16 November 2018 to 30 April 2023.²⁰

The Merits of the Case

The Arbitrator will decide the Complaint by reference to what, in his opinion, is fair, equitable and reasonable in the particular circumstances and substantive merits of the case.²¹

¹⁵ P. 91

¹⁶ As per p. 87 MACTE had their licence revoked and were obliged to transfer securities held in custody to NADAQ CSD in accordance with Bank of Lithuania resolution.

¹⁷ P. 92

¹⁸ P. 83

¹⁹ P. 97

²⁰ P. 98 - 99

²¹ Cap. 555, Art. 19(3)(b)

The Arbiter is considering all pleas raised by XNT relating to the merits of the case together to avoid repetition and to expedite the decision as he is obliged to do in terms of Chapter 555²² which stipulates that he should deal with complaints in ‘*an economical and expeditious manner*’.

The Complainant – Background & Eligibility

The Complainant is a limited liability partnership set up in September 2013 in the United Kingdom, with its principal activity being indicated as the ‘*international trade of wood*’.²³

According to the latest copy of the LLP’s Members’ Report and Unaudited Financial Statements for the year ended 30 September 2024,²⁴ its annual turnover and or annual balance sheet total for the said year was below the applicable thresholds of a ‘*micro enterprise*’ as defined in Article 2 of Chapter 555 of the Laws of Malta (‘the Act’).

The latest LLP’s Members’ Report and Unaudited Financial Statements for the year ended 30 September 2024, further indicates that the ‘*Average number of employees, including members, during the year was: 2 (2023: 2)*’.²⁵ This is also below the threshold (of fewer than ten persons employed), which is required to be satisfied for one to be eligible to be treated as a micro-enterprise for the purposes of the Act.

Having verified the Complainant’s eligibility as a micro-enterprise, and thus as an eligible customer who is qualified to make a complaint under the Act, the Arbiter shall next proceed to consider the pertinent aspects relating to the merits of the case.

However, the Arbiter points out that the disagreement between the parties relates to technical issues involved in the transfer of securities from a custodian that could no longer carry out its functions (having had its licence revoked and obliged to transfer clients’ holdings to a third party under regulatory guidance of the Central Bank of Lithuania), to a new custodian that holds the necessary

²² Art. 19(3)(d)

²³ <https://find-and-update.company-information.service.gov.uk/company/OC387625>

²⁴ <https://find-and-update.company-information.service.gov.uk/company/OC387625/filing-history>

²⁵ Page 7 of the LLP’s Notes to the Financial Statements for the year ended 30 September 2024.

contract relationship with the third party (NASDAQ CSD Lithuania) and who could hold the securities to the order of the ultimate beneficiary (KT LLP).

It is quite evident that the Complainant had difficulty to understand that the securities could not be transferred to their Bank without having as an intermediary a qualified custodian appointed to receive the securities held by NASDAQ CSD and who could hold them on account for their Bank.

In fact, the remedy requested in the registered complaint was for the Arbiter to simply order the Service Provider to transfer the securities to their new bank Corner Bank AG and to show proper custody charges based on the value published on The NASDAQ Baltic stock exchange.²⁶

It was during the process of evidence collection that the Complainant continued to extend the remedy requested as explained above even though in the hearing of 2 September 2024 it was made clear that:

“the Arbiter cannot accept new demands which were not made in the original complaint.”²⁷

Furthermore, in the first hearing of 22 July 2024, the Arbiter had pointed out serious deficiencies in the formulation of the complaint as well as in the reply of XNT. This further confirms that the problems were mainly of a technical nature.

For this purpose, the Arbiter is hereunder giving further background about the issues giving rise to the technical aspects of this case. Cognisance is also being taken of an important recent development that the Arbiter became aware of during the review of this case, involving the liquidation of the investment funds, which was just announced in late February 2025 as per the notices issued by the manager of the funds.²⁸

The Securities Transfer Request & Other

The Securities Transfer Request form dated 26 July 2023 and signed by one of the designated members of KT LLP, requested the transfer of four funds held in

²⁶ P. 4

²⁷ P. 104

²⁸ <https://signetbank.com/en/news-2/>

the Complainant's account with XNT to a new financial institution, *Corner Bank AG*.²⁹

The Securities Transfer Request Form listed the following funds with a total face value of EUR 382,025.67:³⁰

- *Integrum Emerging Markets Corporate USD Bond Fund* (ISIN: LV0000400935)
- *Integrum Global USD Bond Fund* (ISIN: LV0000400315)
- *Integrum Global Corporate USD Bond Fund* (ISIN: LV0000400802)
- *Integrum CEEMEA USD Bond Fund* (ISIN: LV0000400331).

Whilst the ISIN numbers of the indicated securities in the Securities Transfer Request³¹ match exactly the list indicated by XNT,³² the following differences were noted:

- (i) Reference to '*ABLV*' instead of '*Integrum*'.
- (ii) Apart from the references to *ABLV/Integrum* a difference in the name of two of the funds was also noted:
 - The fund's name with ISIN LV0000400315 was indicated by the Service Provider as '*Ablv Emerging Markets Usd Bond Fund*' whilst in the Securities Transfer Request form this was indicated as '*Integrum Global USD Bond Fund*;
 - The fund's name with ISIN LV0000400331 was indicated by the Service Provider as '*AB.LV High Yield CIS USD Bond Fund*' whilst in the Securities Transfer Request form this was indicated as '*Integrum CEEMEA USD Bond Fund*'.

Further to general searches on the internet, it transpires that the discrepancies seem to be due to changes in the names of the funds and fund management

²⁹ P. 21 - 22

³⁰ *Ibid.*

³¹ P. 21

³² P. 83

companies. For example, the following notices were found following a general search over the internet:

- A notice issued in December 2021, about a change in name of the management company of the funds, outlining that “*ABLV Asset Management, IPAS company name will be Integrum Asset Management IPAS*”;³³
- A notice issued in July 2023 that “*ABLV Bank, AS, which is in liquidation, has sold 100% of its voting shares in its subsidiary Integrum Asset Management IPAS*”;³⁴
- A further notice indicates that the managing company, ‘*Integrum Asset Management IPAS*’ changed its name to ‘*Signet Pensiju Pārvalde IPAS*’ in 2023;^{35,36}
- a notice on the website of *Signet Asset Management IPS* indicates that ‘*ABLV High Yield CIS USD Bond Fund*’ changed its name to ‘*Integrum CEEMEA USD Bond Fund*’ in January 2023.³⁷

Moreover, it seems that certain mergers between some of the funds might have also occurred in 2023.³⁸

³³ <https://signetpensijas.lv/en/ablv-asset-management-ipas-nosaukuma-un-zimola-maina-uz-integrum-asset-management-ipas/>

³⁴ <https://www.ablv.com/lv/press/2023-07-31-likvidejama-ablv-bank-as-pardevusi-integrum-asset-management-ipas-akcijas>

³⁵ <https://www.manapensija.lv/en/2023/11/name-of-state-funded-pension-scheme-investment-plan-aktivais-ieguldijumu-plans-integrum-changed-to-signet-aktivais-plans/#:~:text=The%20name%20of%20the%20Managing%20Company%20and%20the%20name%20of,IPAS%20since%20October%2010%2C%202023.>

³⁶ <https://signetpensijas.lv/en/par-integrum-asset-management-ipas-akcionaru-mainu/>

³⁷ <https://signetpensijas.lv/en/izmainas-integrum-asset-management-ipas-parvaldita-ieguldijumu-fonda-dokumentos-2/>

³⁸ <https://signetpensijas.lv/en/obligaciju/ablv-emerging-markets-corporate-usd-bond-fund/>

One must note here that ABLV Bank went into liquidation in 2018 as explained in the ECB press statement of 24 February 2018 giving background to their decision to follow the liquidation rather than the resolution route.³⁹

It is understandable that the liquidation process was complicated given the Money Laundering issues involved. This must have rendered the disposal of assets complex and prolonged.

Another aspect that the Arbiter noticed during the proceedings of the case relates to the nature of the investment instruments in question. Whilst the Securities Transfer Request Form indicates the 'Security type' as 'Fund', that is as a collective investment scheme (or 'investment funds' as also referred to by the Complainant throughout the proceedings), during the hearing of 22 July 2024, XNT's representative referred to the instruments as being '*illiquid Latvian bonds*'.^{40, 41}

The Arbiter could not reconcile the statements made by XNT's representative during the hearing of 22 July 2024, that '*the bonds are ABLV bonds*' and that the investments are '*illiquid bonds*' when the nature of the investment instruments are clearly **open-ended investment funds**.⁴²

It is probable, however, that references were being made to the underlying bond instruments in the bond investment funds and that some of these underlying bonds could have been involved in the liquidation of ABVL thus potentially rendering them illiquid.

³⁹ <https://www.bankingsupervision.europa.eu/press/pr/date/2018/html/ssm.pr180224.en.html>

⁴⁰ P. 101

⁴¹ Copy of the Prospectus for the funds was only found in Latvian.

⁴² <https://www.nasdaqbaltic.com/statistics/en/instrument/LV0000400935/fund?date=2025-03-03>

<https://markets.ft.com/data/funds/tearsheet/summary?s=lv0000400315:usd>

<https://nasdaqbaltic.com/statistics/en/instrument/LV0000400802/fund?date=2025-03-03>

<https://nasdaqbaltic.com/statistics/en/instrument/LV0000400331/fund?date=2025-03-03>

Timeline following the Securities Transfer Request

The following is a summary of the pertinent exchanges between the parties following the Securities Transfer Request of 26 July 2023:^{43, 44}

- 3/7 August 2023 - It is noted that on 3 and 7 August 2023, the Complainant requested XNT to provide a status update regarding the Securities Transfer Request of 26 July 2023.⁴⁵
- 3 August 2023 – XNT informed the Complainant *inter alia* that as soon as they receive an update on the status of the transfer they will be immediately notified.⁴⁶ In its email of 7 August 2023, XNT explained that *‘At the moment, the support team does not have an affirmative answer regarding your request. We are waiting for a comment ... about the current progress’*.⁴⁷
- 7 August 2023 - XNT informed the Complainant that *‘At the moment, transfers have reported that they are unable to complete the transfer of these securities. Sent a request for details’*.⁴⁸
- 8 August 2023 – The Complainant asked for an explanation of the reason for the non-transfer of the securities.⁴⁹
- 21 August 2023 – The Complainant asked XNT to *‘Let us know when you complete the transfer of securities’*.⁵⁰
- 21 August 2023 – Another email was sent to XNT requesting it to confirm when the transfer of the securities is completed. In the said email, it was further noted that:

‘From a third party, we learned that your broker’s license was taken away.

⁴³ The exchanges were between XNT and (Complainant) a designated member of KT LLP.

⁴⁴ The timeline only includes those communications which were provided in English.

⁴⁵ P. 30 & 32

⁴⁶ P. 31

⁴⁷ P. 33

⁴⁸ P. 34

⁴⁹ P. 35

⁵⁰ P. 37

How are we to blame for this? And why do you charge us for the storage of securities, on what basis, as the transfer is impossible only for your biased reasons.

Check the option of another, without a broker, securities transfer, according to our instructions of 26.07.2023.

We would like to inform you that from today we will not pay you for the storage of securities'.⁵¹

- 21 August 2023 – XNT confirmed that they had received the Complainant's additional questions and were compiling an answer. XNT listed three main items under consideration: the transfer of assets; the write-off of commissions and the waiver of a clause.⁵²
- 4 September 2023 – In an email issued by a senior account manager of XNT (unclear to whom exactly), XNT noted that '*... I can see discussion of custody fee and possibility not to charge it. And what is the reason that the client cannot transfer out the securities? There is no specific answer, which causes dissatisfaction*'.⁵³
- 30 October 2023 – The Complainant sent a letter to XNT asking it '*to effect securities transfer as per our Securities Transfer Request dated 26.07.2023. If this request is not completed within 15 working days, we reserve the right to file a complaint with the regulator The Office of the Arbiter for Financial Services*'.⁵⁴
- 30 October 2023 – XNT confirmed receipt of the Complainant's letter and noted that '*All further processing shall be executed according to our corporate standards*'.⁵⁵

⁵¹ P. 38

⁵² P. 40

⁵³ P. 42

⁵⁴ P. 67

⁵⁵ P. 75

Other pertinent communications

- 7/10 July 2023 - It is noted that one of the documents presented by the Service Provider was a *'Notice of Agreement termination'* dated 7 July 2023 sent to XNT by *Macte Invest FM AB* (*'Macte'*) (a broker based in Lithuania).⁵⁶

In the said notice, Macte informed XNT that XNT's account *'has been closed'* and their investment services contract was *'terminated as of 07/07/2023'* with the reason for the closure of the account being *'Termination of providing investment and ancillary services'*.⁵⁷

The said notice indicated that the *'Securities balance on accounts'* and the *'Assets that are subject to depo account'* were higher than EUR 12.9m (EUR equivalent).⁵⁸

The said notice of termination was attached to an email sent by Macte to XNT on 10 July 2023, where XNT was notified the following:

'We inform you that the Investment Service Provision Agreement with you was terminated on July 07, 2023. Please see in attachment Notice of Agreement termination with Position report at July 07, 2023.'

Information about owners of financial instruments and balances of financial instruments in financial instrument accounts, as well as cash funds will be transferred to the Nasdaq CSD SE Lithuanian branch. It should be noted that the Nasdaq CSD SE Lithuanian branch will apply fees and require to cover costs related to administration of your assets.

This transfer will be conducted following the Rules for the management of clients' financial instruments and cash accounts when revoking the license of a financial brokerage firm, approved by the resolution No. 03-119 of the Board of the Bank of Lithuania on 20 June 2018.

⁵⁶ P. 86

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

*You can contact Nasdaq CSD SE Lithuanian branch representatives by email: csd.lithuania@nasdaq.com on any issues’.*⁵⁹

- 3 August 2023 – In an email sent by XNT to *Nasdaq CSD Lithuania*, XNT asked the following:

‘Please be advised that we have received a notification from our counterpart Macte Invest FM AB about the termination of the Investment Service Provision Agreement (ISPC).

Macte Invest has also advised that the whole portfolio will be moved/ transferred to Nasdaq CSD SE Lithuanian branch account, which is why I wanted to reach out to you to clarify the following questions:

- *What are the administration (and other) fees that will be applied to this transfer?*
- *Has the process been initiated to move the assets into the Nasdaq CSD SE Lithuanian branch?*
- *What is the timeline for this transfer/move? When could we expect it to be completed?*⁶⁰

- 7 August 2023 - In a subsequent email dated 7 August 2023, *Nasdaq CSD Lithuania* informed XNT the following:

‘Please be informed that we have not yet taken over the securities and recommend that all clients of Macte Invest FM AB transfer their securities and cash balances to another account manager as soon as possible.

*Later on, the process may be more complicated and cost the client more’.*⁶¹

⁵⁹ P. 87

⁶⁰ P. 95

⁶¹ P. 94

In a follow-up email on the same day, *Nasdaq CSD Lithuania* reiterated that they had *'not yet taken possession of the securities, so in the meantime please contact Macte Invest FM AB for transfer of securities'*.⁶²

- 27 December 2023 – Following an enquiry by XNT with Macte, the latter informed XNT the following:

'... First and foremost important part is that Macte fully complies with MIFID Regulations and acted as a responsible holder for its clients assets and always acted accordingly.

Macte was always ready and still is ready to execute your clients remaining assets transfer, bearing in mind XNT Ltd will provide respectful SSIs⁶³ of the own clients account for the asset transfers.

I would like to point out that we haven't received any such SSI's from your side yet. Please provide those ASAP so we could complete asset transfer.

Regarding your statement that Macte still haven't completed asset migration to Nasdaq CSD SE Lithuanian Branch, this migration is a process of multiple checks and agreement framework between multiple parties, which takes time and no ETA was outlined. We can assure you that we are doing our best to complete the agreement base which will meet the interests of every single client.

Meanwhile XNT Ltd is welcomed to contact Nasdaq CSD SE Lithuanian Branch directly to open a clients custody account providing us with respectful SSI's'.⁶⁴

Current status

It is noted that during the hearing of 22 July 2024, XNT *inter alia* explained that:

⁶² P. 92

⁶³ SSI – Standard Settlement Instructions

⁶⁴ P. 97 – Emphasis added by the Arbiter

'So, our current situation is that the bonds are still sitting with CSD Lithuanian Nasdaq which is a broker of MACTE. So, they left MACTE and, currently, we are in communication with the client's broker, Corner Bank, in order to give us the final confirmation to transfer out these illiquid bonds.

According to our correspondence with the client's broker, they received the prospectus of the bonds. However, the prospectus was in a foreign language, and they are now checking with their custodian for a translation of this prospectus and they are asking for the custodian's confirmation that they are ready to accept the bonds.

That is the current situation. So, from our side we will receive the OK from CASD Lithuanian Nasdaq, the custodian of MACTE, that they are willing to transfer out the bonds. So, now, the ball is completely in the client's chosen broker's side. We chased them up again today, and they said that as soon as they have an answer from their custodian, they will let us know.

So, that is the only thing missing in the puzzle and the problem is resolved if the custodian of the client's chosen broker, Corner Bank, accepts this business'.⁶⁵

During the hearing of 2 September 2024, XNT's representative further explained the following:

'Since the last meeting, we had a lot of communication going back and forth between the client's recommended broker, Corner, and between CSD Lithuanian Nasdaq, the custodian that currently holds the Integrum fund of the client. According to the last email that we have received from Corner, it seems that Corner does not know the correct procedure of how to request a transfer of the assets from CSD Lithuania to Corner.

...

So, what is going maybe right now it seems that the staff of Corner do not know the correct process of transferring the requested assets from CSD Lithuania to Corner. Everything from our side was provided. We are keeping

⁶⁵ P. 101

a log of screenshots of all the correspondence that we have both with CSD Lithuanian Nasdaq and Corner. We are more than happy to share this correspondence with relevant screenshots that prove what I am saying right now either after this hearing or upon request.

The situation is simple: we need Corner, the recommended broker from the client's side, to figure out the correct way of transferring the assets from CSD Lithuanian Nasdaq to Corner.

I say that, from our side, we have provided all the information but from the emails it clearly shows that they do not know the correct procedure. So, now they will get advice from the upstream custodian on how to correctly do that. Unless they do that, there is nothing more we can do about it. Everything was provided from our side.

So, if the client can communicate (we can provide the name of the person we are talking with) with his recommended broker and ask what is going on and why his assets are still not transferred, that would be very helpful as well as, as I have already said, from our side everything was provided.

*It is up to Corner now to follow the correct procedure to transfer the assets to the recommended broker of the client.'*⁶⁶

An important development is noted from the final submissions of 28 November 2024, where the Complainant noted that it itself made an attempt with the funds' manager, in July 2024, for the redemption of the funds, however, without success. (It is further noted that the said redemption notice dated 12 July 2024⁶⁷ features different ISIN numbers to those mentioned earlier in this case).⁶⁸ In the said submissions, the Complainant *inter alia* noted that:

'At the request of XNT Ltd, on 12.07.2024 (after a year of unsuccessful transfer of securities), we submitted to Signet Asset Management Latvia IPS (which manages the funds) an application for redemption of the securities, but received a response that they cannot accept the application for redemption for execution, since XNT Ltd cannot deliver the fund shares to

⁶⁶ P. 104 - 105

⁶⁷ P. 112

⁶⁸ The only matching name and ISIN number is for 'Integrum Global USD Bond Fund' with 'ISIN: LV0000400315'

them (we attach the Application for redemption of investment certificates of investment funds and the response of Signet Asset Management Latvia IPS)'.⁶⁹

The Complainant further referred to a notice issued by the fund manager *Signet Asset Management Latvia, IPS* which stated as follows:

'Please note that the depository Nasdaq CSD on 30.12.2022. has decided to suspend access to the securities settlement system Nasdaq CSD for the financial institution Macte Invest FM AB. Macte Invest FM AB is the only known custodian for the financial institutions EXT LTD (Reg. No. HE 293592, Cyprus) and XNT LTD (Reg. No. C 52182, Malta). Due to the mentioned restrictions, starting from 26.01.2024. Signet Asset Management Latvia IPS (hereinafter - the Company) will not accept for execution the applications for redemption of investment certificates from investors who hold investment certificates in financial institutions Macte Invest FM AB, EXT LTD and XNT LTD.

Investors who hold certificates in the financial institutions Macte Invest FM AB, EXT LTD and XNT LTD have to open the financial instrument account in another financial institution and submit the order for the transfer of financial instruments. When the investment certificates will be transferred to the financial institution that is entitled to hold and carry out transactions with the investment certificates, the investor can submit application to the Company for redemption of certificates.'⁷⁰

The Complainant also attached an email dated 12 July 2024 from Signet Asset Management Latvia, IPS which stated that:

'Thank you for your application, but we cannot accept the application for redemption for execution, because XNT Ltd cannot supply us with shares of funds'.⁷¹

⁶⁹ P. 110

⁷⁰ P. 118 & <https://signetbank.com/en/bond-news/applications-for-the-repurchase-of-investment-units-from-investors-holding-units-in-ext-ltd-and-xnt-ltd-will-not-be-accepted-for-execution/>

⁷¹ P. 117

It is further noted that in its final submissions of 28 November 2024, the Complainant explained that:

'Since the transfer of securities has been going on for almost a year and a half, and the terms of the transfer are constantly changing on the part of XNT Ltd, the depository of Corner Bank AG on 17.10.2024 refused to participate in this transfer and, as a result, to accept the securities'.⁷²

In the same submissions, the Complainant accordingly requested XNT to pay them the market value of their securities with the securities being in turn left to XNT.⁷³

On its part, in its final submissions of 20 February 2025, the Service Provider provided an overview of its discussions and failed attempts to transfer the funds to Corner Bank.⁷⁴ XNT, in essence, blamed the failed transfer on the lack of the requested Standard Settlement Instructions (SSI) from Corner Bank and the lack of a new request to transfer out the assets to a different counterparty account.

The Service Provider further submitted that it was the *'[Complainant's]/Corner Bank's responsibility to find the custodian which is a direct participant of Nasdaq CSD Lithuania (the list could be found here: <https://nasdaqcsd.com/lithuania/en/list-of-participants/>) and which can transfer IN the [Financial Instruments]'*.⁷⁵

XNT attached various communications it exchanged with Corner Bank and Nasdaq CSD where the latter advised that another party, SEB Bank, should be the counterparty involved in the transfers and not directly with Corner Bank.⁷⁶ It is noted that in an email issued by Nasdaq CSD to XNT, it was *inter alia* noted that:

'Again, please be noted that there is no possibility to settle LV0000400315 directly with Corner bank. Two separate instructions are needed.

⁷² P. 111

⁷³ *Ibid.*

⁷⁴ P. 122 – 123 (with attachments on P. 125 – 166).

⁷⁵ P. 122

⁷⁶ Example – P. 146 - 148

Our sales team has already advised you in the beginning.

QUOTE Baltic instruments can only be settled for in T2S by Macte's clients through another Nasdaq CSD participant (e.g. SEB, Swedbank). The list is here:

<https://nasdaqcsd/lithuania/en/list-of-participants/>

UNQUOTE

Corner bank would not be able to match our instruction with SEB, since this trade is between Nasdaq CSD participants.

We advise you or Corner bank to agree with SEB to release their instruction and provide us with settlement dates. Next step is for SEB to agree with Corner bank regarding the SSI's for further instruction between SEB and Corner bank'.⁷⁷

It is further noted that in an email dated 3 September 2024, the custodian of Corner Bank, SIX, had raised certain reluctance on the acceptance of the fund's shares. In the said email it was noted that:

'SIX just reached out to us with the following feed-back:

QUOTE

...

We received now a feed-back from our custodian. They informed us that the fund might not be received, due to some sanctions. As soon as there is new information available, we will update you accordingly.

"quote"

Apologies – but could you please hold a bit – we are checking internally if we can accept those securities, as there is a slight risk of sanctioned securities in the fund. I know that back in July we confirmed that there are

⁷⁷ P. 150

no restrictions, but unfortunately after additional check some concerns arose.

I hope during today we will be able to confirm back to you.

“unquote”

UNQUOTE

I kindly ask you to wait until SIX received further info about the acceptability of this fund.’⁷⁸

The above issues seem to have however been surpassed given that in a subsequent email dated 9 September 2024, it was quoted that ‘*After the investigation we can confirm, that you can proceed with the transfer*’.⁷⁹ Further issues seem however to have cropped up with respect to the validation of the Bank Identifier Code (BIC) in the SWIFT system in the communications between the parties which led to the transfer not being made.⁸⁰

Further to the above, the Arbiter also notes that Signet Asset Management (the fund manager of the investment funds), has just issued during February 2025, announcements that a decision was taken for the initiation of the liquidation of the Integrum open-ended investment funds.^{81 82}

In one of the notices to investors dated 13 February 2025, the fund manager stated *inter alia* the following:

*‘Signet Asset Management Latvia IPS hereby notifies that considering the permission to commence the liquidation of mutual funds issued by the Bank of Latvia starting from February 13, 2025 Signet Asset Management Latvia IPS ceases to accept applications for redemption of investment certificates of mutual funds’.*⁸³

⁷⁸ P. 152

⁷⁹ P. 154

⁸⁰ P. 160 - 163

⁸¹ The ISIN numbers of the funds listed in the notice of the fund manager are the same as those reflected for the funds in the Complainant’s redemption notice of 12 July 2024.

⁸² P. 112 & <https://signetbank.com/en/news-2/>

⁸³ <https://signetbank.com/en/bond-news/notice-to-investors-of-mutual-funds-integrum-global-bond-fund-with-sub-funds-integrum-global-usd-bond-fund-and-integrum-global-eur-bond-fund/>

It is also noted that in a notice dated 4 March 2025, the fund manager noted that it is carrying out the liquidation of the funds and that:

*'The Manager will publish a notice on the payment of the liquidation proceeds to the Funds' investors in the official issue "Latvijas Vēstnesis", indicating the amount to be paid out per investment certificate. The liquidation proceeds will be paid out by transferring the funds to the custodian with whom the Fund's investor holds Funds' investment certificates.'*⁸⁴

The same notice also stated that:

*'Fund investors should note that the prerequisite for the payment of liquidation proceeds is the compliance review of the Fund's investors, which is carried out by the Manager in accordance with the procedure described here in, and the liquidation proceeds intended for the Fund's investor will be subject to the same restrictions as those applied to the investment certificates owned by the Fund's investor.'*⁸⁵

The above developments relating to the investment funds further substantiate particular technical aspects relating to compliance that need to be sorted out.

Final Observations

Part BI of the *Investment Services Rules for Investment Services Providers* ('the Rulebook') issued by the *Malta Financial Services Authority* ('MFSA') is applicable to the activities of XNT Ltd as a MiFID firm.

Rule R1-1.4.11 of the Rulebook provides that:

'The Licence Holder holding or controlling Client Assets shall comply with the relevant provisions of the Investment Services Act (Control of Assets) Regulations (Legal Notice 240 of 1998).'

⁸⁴ <https://signetbank.com/en/bond-news/information-for-investors-of-mutual-funds-integrum-global-bond-fund-with-sub-funds-integrum-global-usd-bond-fund-and-integrum-global-eur-bond-fund/>

⁸⁵ *Ibid.*

The Compliance Review of investors is detailed in: <https://signetbank.com/en/compliance-review-of-investors/>

The Investment Services Act (Control of Assets) Regulations stipulate various requirements including that the *'subject person shall exercise all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those instruments'*, as specified in regulation 8(2).⁸⁶

XNT is duty bound to take the necessary measures in terms of law to safeguard the customer's instruments.

Conclusion and decision

It is evident that resolution of the issues involved has been complicated by two distinct factors:

1. Complainant and their chosen party not acting effectively to enter into a custody arrangement with a party that is Nasdaq CSD participant (e.g. SEB, Swedbank) accredited to act as their custodians who can then account the holdings properly to the Fund Manager.

It was indicated that without such an arrangement the Fund Manager would not be able to accept instructions for any trading in the securities it manages.⁸⁷

2. The possibility of some of the underlying bonds in the investment funds being shadowed by AML considerations from the time they were ABLV funds, given the grave AML offences which brought down ABLV Bank.

The Arbiter cannot, therefore, give orders as requested by the Complainant in their original complaint for the transfer of the securities before the parties co-

⁸⁶ <https://legislation.mt/eli/si/370.5/eng/pdf>

⁸⁷ Email issued by Nasdaq CSD (P. 150) & <https://signetbank.com/en/bond-news/applications-for-the-repurchase-of-investment-units-from-investors-holding-units-in-ext-ltd-and-xnt-ltd-will-not-be-accepted-for-execution/>

operate properly and exhaust their available options to resolve the applicable technical issues.

This is also even more in the context of the ensuing developments involving the liquidation of the investment funds as announced recently in February and March 2025 by Signet Asset Management Latvia IPS and the compliance process requested to be adhered to.⁸⁸

The Arbiter is accordingly dismissing this complaint with each party to carry its own costs of these proceedings.

Recommendation

The Arbiter, however, wishes to make these non-binding recommendations in the context of what may lead to resolution of the technical issues impeding free accessibility to the underlying securities:

1. On the basis of the lack of adequate and timely notifications about the developments involving XNT's counterparty's termination of their custody services, XNT may consider - on an *ex gratia* basis and as a gesture of goodwill - a full or partial waiving/refund of the custody/nominee holding fees charged to the Complainant starting from the period 26.07.2023 (the date of the securities transfer form) to the date of effective transfer/redemption;
2. To co-operate, liaise with and assist the Complainant to expedite the appointment of a new custodian accredited with NASDAQ CSD that can take the securities in custody and hold them for account of the Complainant through their account with Corner Bank AG or other acceptable party.
3. To co-operate, liaise with and assist the Complainant with the Compliance Review process required by the Fund Manager.

⁸⁸ <https://signetbank.com/en/bond-news/information-for-investors-of-mutual-funds-integrum-global-bond-fund-with-sub-funds-integrum-global-usd-bond-fund-and-integrum-global-eur-bond-fund/>

<https://signetbank.com/en/compliance-review-of-investors/>

The above is without prejudice to any other redress or actions that the Complainant may have with respect to its assets in terms of law.

Alfred Mifsud
Arbiter for Financial Services

Information Note related to the Arbiter's decision

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.