

## The complaint

Mr R complains that Barclays Bank UK PLC, trading as Barclays Smart Investor ("Barclays") didn't act in his best interests following a corporate action.

## What happened

Mr R has a share dealing account and a stocks and shares ISA account with Barclays, both of which are execution only. In each account, Mr R had a holding of 1,195 shares in a company which I'll refer to as "S".

In 2020 a scheme of arrangement was announced. Under the terms of the offer, for every S share held, shareholders would receive 4.1p in cash and 0.0008355599837 new shares in a company which I'll refer to as "A".

Mr R complains that he only received £55.67 cash in each of his accounts. He says he should have received £489.95 in each account under the offer terms. He says Barclays failed to provide the required information to the registrars by the deadline date, meaning he didn't receive the full amount he was entitled to.

Barclays said it had paid Mr R the amount that it had received. It said it couldn't allocate Mr R his fractional entitlement in A shares and that this would be held as a pooled investment until such time as A shares becomes tradeable. It said it relied on the information supplied to it by CREST and that the option to take up fractional shares separately with the registrar was not included. It paid Mr R £100 because of the time it took to answer the questions he'd raised.

Our investigator recommended that the complaint should be upheld. He concluded Barclays should have contacted the registrar to ensure it received the correct cash settlement for its underlying holders and that it hadn't acted in Mr R's best interests. He thought Barclays should credit Mr R's accounts with the amount he would have received if he'd received the cash settlement, plus interest.

Barclays didn't agree with our investigator, so the complaint was passed to me to consider.

## *My provisional decision*

I agreed with our investigator but was minded to award a slightly different redress. So I set my findings out in a provisional decision to give both parties a final opportunity to respond. I said:

Under the terms of the scheme of arrangement Mr R was due to receive the following for each S share he held:

- 4.1p in cash.....
- 0.0008355599837 new A shares

Where a shareholder didn't hold enough S shares to receive at least one new A share, the scheme of arrangement paid the equivalent of their fractional entitlement in cash.

The prospectus recognised the position of nominee brokers. It arranged to pay the fractional cash equivalent for each underlying holding, provided the nominee provided details of its underlying holdings by a set date. Otherwise, the fractional cash equivalent would be calculated on the nominee's total registered holding.

Barclays didn't provide details of its underlying holdings by the required date. That meant it received the cash, share and fractional cash equivalent on its total holding and then it distributed the amount it received to its underlying holders.

Mr R received £55.67 in each of his accounts. This was made up of £48.99 for the cash offer of 4.1p per share, and his share of the fractional cash equivalent on Barclays' total nominee holding.

Barclays also received A shares for its total nominee holding. Mr R is due a fraction of these shares (approximately 0.99 of a share in each account). Barclays' platform does not allow for the holding of fractional shares, so it has pooled the shares and will credit Mr R's account if and when it is able to sell the shares.

I don't think Barclays has acted in Mr R's best interests. I say that because he has received a fractional share entitlement; and there isn't a market for the shares so it doesn't look likely that he will receive any sale proceeds. Barclays had the opportunity to provide details of Mr R's holdings to the registrar, and he would then have received a cash equivalent of his fractional share entitlement. Based on the information he's provided, this would appear to be at a rate of £0.369 for each S share held – a total of £440.96 in each account.

Barclays said it didn't read the prospectus in full and that it relied on CREST to provide it with the information it needed. But I don't think Barclays can be seen to be acting in Mr R's best interests in trying to limit its liability due to a third party error when Mr R has made a loss as a result which he can't claim back from that third party. And this is covered in its terms and conditions where it says – at A 20.1 and A 20.7:

*“Nothing in the Agreement will exclude or limit any duty or liability:  
(a) we may have to you under Regulatory Requirements: or  
(b) that applicable law does not allow to be excluded or limited.”*

The Financial Conduct Authority's rules require Barclays to act in the best interests of its clients.

Barclays has drawn our attention to Section B, clause 3.3 of its terms which covers distribution of corporate action entitlements to its underlying holders and how it deals with unallocatable fractions. But the term about unallocatable fractions (B 3.3 (b)) only applies to the share fractional entitlement. I've found Barclays should have taken action to ensure Mr R received the cash entitlement for his fractional share, so this term isn't relevant here.

Finally, Mr R says he wants all Barclays' clients in his position to be compensated. Barclays says it wouldn't be fair to compensate Mr R and not its other clients. My role is to consider individual disputes and reach an outcome that I think is fair and reasonable in the particular circumstances of each. I don't have the power to tell a bank how it should treat all customers or how it develops its internal policies. That's a matter for the regulator, the Financial Conduct Authority (FCA).

And I explained what I thought Barclays needed to do to put things right. I said:

Mr R should be put in the position he'd be in now if Barclays had provided details of his underlying holding to the registrar by the required date. He would have received £48.99 for the cash offer and £440.96 for the cash equivalent of the fractional share entitlement in each of his accounts. He has only received £55.67. So I think Barclays Bank UK PLC, trading as Barclays Smart Investor, should credit each of Mr R's accounts with £434.28. Barclays should also pay interest at the simple rate of 8% a year from the date his accounts should have been credited to the date of settlement.

Barclays paid Mr R £100 for the distress and inconvenience that the delay in answering his questions caused. But Mr R has also been caused distress and inconvenience because Barclays didn't act in his best interests. I think it's fair that it should pay a further £100 compensation.

This redress means Mr R will not be entitled to the fractional A shares. If Barclays successfully sells these shares, it won't be obliged to pay Mr R a share of the proceeds.

#### *Responses to my provisional decision*

Mr R replied to say he agreed with my provisional decision. He provided some further information from the prospectus to clarify some of the figures.

Barclays agreed to my provisional decision, based on the individual circumstances of this complaint.

#### **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'd like to thank Mr R for clarifying some of the figures, although this doesn't change the overall outcome. And I'm pleased Barclays has accepted my provisional decision.

As neither party has provided any new information or evidence, I see no reason to depart from my overall conclusion.

#### **My final decision**

My final decision is that I uphold this complaint. Barclays Bank UK PLC, trading as Barclays Smart Investor should:

1. Credit Mr R's share dealing account and his ISA account with £434.28 each. And it should pay interest at the simple rate of 8% per year from the date Mr R should have received the scheme of arrangement payment to the date of settlement. \*
2. Pay Mr R £100 for the distress and inconvenience caused, in addition to the £100 already paid.

\* HM Revenue & Customs requires Barclays to take off tax from this interest. Barclays must give Mr R a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 May 2022.

Elizabeth Dawes  
**Ombudsman**