

The complaint

Mr B says he instructed Hargreaves Lansdown ('HL'), on 27 July 2020, to arrange a transfer of his Self-Invested Personal Pension ('SIPP') from The Prudential Assurance Company Limited ('Prudential'). Prudential was the ceding firm and HL was the receiver in the transfer. Prudential was contacted by HL on 3 August 2020, whereby the latter sought transfer forms from the former. The transfer process followed thereafter.

Mr B says Prudential caused delays to the transfer process from 3 August 2020 onwards; that this delayed completion of the SIPP's asset transfers; and that the delays caused him financial losses (including, and/or especially, financial loss from a missed rights issue opportunity in Rolls Royce ('RR') stock which he would have undertaken before or by the deadline of 27 October 2020 but, because of the delays, was unable to).

What happened

One of our investigators looked into the complaint and issued two views on it – having considered the parties' comments on his first view, that was followed by his second. Overall, he mainly found as follows:

- Mr B's complaint is primarily about the in-specie element of the transfer, but there was also a cash transfer element which could not be executed by Prudential until the in-specie element had been completed. Having begun on 3 August 2020 the process was not completed until 17 February 2021, which is when Prudential settled the cash transfer (a total of £84,343.02), using the effective date of 16 February 2021, and sent it to HL.
- Prudential initially caused a delay by responding to HL's request (of 3 August) for transfer forms on 27 August; HL returned the completed forms on 23 September, Prudential is not responsible for the time taken by HL to do that, but it caused another delay thereafter by not instructing its administrator (Curtis Bank ('CB'), a third party), until 22 October, to arrange the in specie transfers and to provide the cash balance; then, and up the transfer completion in February 2021, Prudential chased CB for progress but it does not hold CB's responsibility for its (CB's) role in the process.
- With allowance for reasonable time, and for Prudential's five working days Service Level Agreement ('SLA') guidance for such time, Prudential should have conducted itself as follows – it received contact from HL on 3 August; it should have issued the transfer paperwork by 8 August; it received the completed forms from HL on 23 September, the time that took was not its fault, but it should then have instructed CB to arrange the in specie transfers by 28 September. Thereafter, events were out of its control. However, based on these revised timings for action by Prudential – and reflecting the time it subsequently took for CB to complete the process at its end – the earliest re-registration would have happened on 11 December and the transfer process would have been completed by 30 December.
- On this basis, and even without the delays caused by Prudential, the transfer would

not have happened in time for the RR rights issue related deadline of 27 October (that is, acceptance for the rights issue being in place by this date and then funds being available by 6 November in order to benefit from the lower share price).

Nevertheless, there was a loss of interest incurred by Mr B with regards to the cash transferred on 17 February 2021 that, but for the delay, should have been transferred by 30 December 2020. Responsibility for this is between Prudential and CB, and the lost interest has been calculated as a total of £710.16. This should be paid to Mr B, alongside the £300 Prudential has offered him for the trouble and upset caused by the delays.

Mr B rejected this outcome and he noted that both sums offered amount to what Prudential has already presented to him, which he declined. There is evidence – in an email from CB to Mr B on 9 May 2022 – which suggests that CB and Prudential acknowledge equally shared responsibility for the payment of £710.16 that has been made to him (through HL) in this respect. He appears to have rejected the payment and he says he instructed HL to return it.

Mr B has challenged the investigator's conclusion on a number of grounds, and his overall submissions include reference to a Pensions Ombudsman's ('PO's') decision in a case he considers to be comparable to his. He mainly says that even based on the revised timeline for action by Prudential and on the time HL took to respond – and despite CB's subsequent delay in completing the overall process – it remains the case that he would have been able to receive three of the four re-registered in-specie funds in the HL SIPP in time to liquidate them and reinvest in RR before the deadline. He says redress to him in this respect is required, but such redress has not been provided for. For this argument he refers to each of the three funds being re-registered, in reality, in 23 working days, and he says if the same period is assumed (as it should be) from 9 September (when Prudential ought to have been in a position to instruct CB) the re-registrations would have been completed by 13 October. He also says the service standards for re-registration quoted by the investigator (that is, three to six months) is outdated by decades; that instead the widely recognised turnaround period is 20 to 25 working days – or 30 days, as suggested by Stocktrade (the investment manager for CB who conducted the re-registrations) in its email of 11 May 2022; and that even based on a 30 days turnaround period the re-registrations would have been completed in time for the RR related pursuit.

The investigator had noted that it was Mr B's choice to transfer the relevant funds in-specie and that he could instead have pursued the RR related transactions within the Prudential SIPP and prior to the transfer but chose not to because he did not wish to confuse matters. He said Prudential cannot fairly be blamed for Mr B's decision not to mitigate in this way. In response, Mr B said the investigator is mistaken and that once he instructed the in-specie transfers he was unable to trade in the funds until after the re-registrations were completed.

The matter was referred to an ombudsman.

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 find as follows:

- I endorse, as recommended by the investigator, the payment of £300 to Mr B for the trouble and upset Prudential's delays caused him. Prudential has made the same offer to him in this respect (and its letter to him of 29 July 2021 suggests the £300 payment was made to him at the time), so I agree with the offer/payment too. Mr B appears to have rejected this payment too. Overall, I do not consider that there are

grounds within the trouble and inconvenience, in terms of service, caused to him to warrant a higher award. There is evidence of the distress the delayed transfer service, as a whole, caused him but there is also evidence that action and/or inaction by HL and by CB contributed to this, so I am not persuaded that Prudential should have to pay more than the £300 award.

- The SIPP was in a Prudential Flexible Retirement Plan account and it had three main components – an insured funds ('IF') section, a self-invested funds ('SIF') section and cash in the SIF; the process involved transfer of the SIF's cash, settlement of the IF (and transfer of the proceeds) and transfer of the SIF's investments in-specie. There does not appear to be dispute – or cause for dispute – about the £10,632.06 SIF cash and £73,710.96 IF proceeds transferred as of 16 February 2021.
- The process meaningfully began on 3 August 2020. I do not consider use of Prudential's five working days SLA guidance to be unreasonable in this case and both parties have used the same in their submissions. I have done that too. Without Prudential's delays (which it concedes and which the investigator set out), and by applying the SLA to its actions – but retaining the same time periods taken by HL and CB for their actions – it can be assumed that the process should have developed as follows;
 - Prudential should have issued the transfer forms on 10 August.
 - HL would have taken 18 working days, as it took in reality, to return the forms, so Prudential would have received them on 4 September.
 - Prudential should have instructed CB to conduct the SIF in-specie transfers (therefore to begin the process towards re-registrations) on 11 September.
 - In reality, Prudential's records show that it received confirmation from CB on 6 January 2021 that the SIF in-specie transfers and SIF cash transfer were completed on this date; however, the latter was affected by a lack of documentation from CB, so it was not settled until 16 February 2021; in terms of the former (the in-specie transfers) 6 January 2021 was 51 working days from when CB was instructed on 22 October 2020; so, had CB been instructed on 11 September 2020 the SIF in-specie transfers would have been completed by 23 November 2020.
 - In terms of settlement and transfer of the SIF cash and IF proceeds, that happened on 16 February 2021, 81 working days after the instruction to CB on 22 October 2020; so, had CB been instructed on 11 September 2020 it would have happened on 7 January 2021.
- The lost interest (on the SIF cash and IF proceeds) appears to have been calculated on an earlier start date of 30 December 2020 – and calculated up to the end date of 16 February 2021. I can see the difference in the assumptions Prudential and I have made in this respect, but the main point is that the calculation results in interest over a longer period than if the assumed date above of 7 January 2021 were to be used as a start date. The interest payment offer to Mr B therefore does not appear to be unreasonable. I acknowledge that he rejected it, but he did that mainly because he does not consider it a substitute for redress for the RR rights issue pursuit he seeks, so he does not consider it a *settlement* of his case. Before moving to that issue, I confirm I do not find that the interest related settlement offer for the delayed SIF cash and IF proceeds transfer is unreasonable.
- I now turn to the RR rights issue pursuit, redress for which is the focus of Mr B's claim. The approach towards the assumptions made above fit with the approach he has argued for in this matter – that is, application of the times re-registrations took, in

reality (or even the 30 working days mentioned by Selftrade), to the process whilst assuming that Prudential had instructed CB in September 2020. Where I have used the date of 11 September he refers to 9 September, but I have identified the cause for difference in our calculations and I do not consider it consequential. The investigator was not prepared to agree to this approach, in this matter, because he considered it safe to take a view on completion of the transfer as a whole (all its components) in approaching what Mr B claims about the RR right issue pursuit.

- I agree with Mr B that the actual times taken for re-registrations cannot completely be ignored. They lend themselves to considering what could have happened but for Prudential's delays in the overall process, and that is why I used the approach above. However, for a number of reasons, I share the investigator's concern about applying that approach to the redress Mr B seeks for the RR rights issue pursuit.
- Prudential has confirmed that CB was not made aware of this pursuit at the time and it appears that the same applies to Prudential. In contrast, the PO case that Mr B cites as comparator features evidence of the firm being notified multiple times, and being aware, of a specific intended post-transfer pursuit. The case and its decision are not precedent that must be followed here, and the investigator explained this, but I understand Mr B's reference to it as what he considers to be supporting evidence. In this respect, I consider such support to be quite limited for the above reason. Depending on the circumstances of a case, it is arguably foreseeable, in investment terms, that a cash transfer could probably be destined for time sensitive reinvestment after the transfer. The same cannot automatically be said about an *in-specie* transfer of investments which carries the probability of an intention to retain the same investments after the transfer. Without notice to the firm, as in the PO case, it is difficult to conclude, fairly, that liquidation of the investments and time sensitive reinvestment of the proceeds should have been foreseeable – or that there should be responsibility for loss if such transactions are subsequently taken and turn out to be delayed.
- As the investigator said, Mr B chose to transfer the relevant funds in-specie to the HL SIPP, instead of conducting any intended RR related transactions within the Prudential SIPP. He is not mistaken in this respect or in his reference to Mr B saying he chose not to do this because he did not wish to complicate the transfer. In Mr B's complaint to Prudential he said – *"Clearly if I knew you were going to take this long to transfer I would have bought Rolls Royce shares through my SIPP with you but as I was in the process of transferring I didn't want to confuse matters."* He has referred to buying 12,000 RR shares by 27 October 2020 with the funds available to him, but his argument about the missed opportunity to buy additional shares at the time seems to be based more on what he 'could' have bought with the liquidated proceeds of funds re-registered and transferred in specie, as opposed to what he probably 'would' have bought in this way. It is in my remit to draw conclusions on the balance of *probabilities*. He has also confirmed that only some of the values in the transferred funds could have been used in this way, in his argument not all the funds were to be liquidated and reinvested in RR.
- With the above uncertainties – and the lack of probability – I too consider it safe, and fair, to conclude that assumptions cannot reasonably be made to connect the actual times taken to re-register the SIF in-specie assets with the case presented about the RR rights issue pursuit and then with the claim for redress in this respect. Without the benefit of hindsight, on balance, and for the above reasons, I am not persuaded that these connections exist. Redress for this would mean assuming and accepting that Mr B would probably have liquidated and reinvested in sequence – based on the re-

registrations – as he says he would, but I do not consider that the balance of evidence supports this. I do not doubt that he had an interest in investing in RR – the shares he bought at the time establish this – but that does not automatically prove the above connections. In this context, and on balance, I consider it safe to approach the matter on the basis of when the overall transfer process would have been completed (that is, transfer of the three components), as opposed to when each individual fund would have been re-registered, but for Prudential's delays. As stated in the assumptions above, all the in-specie transfers would have been completed by 23 November 2020 and the SIF cash and IF proceeds would have been transferred by 7 January 2021. Neither would have happened before the deadlines (27 October and 6 November 2020) related to the RR rights issue pursuit, so I do not find grounds to say Prudential is liable for the loss Mr B claims in this matter.

My final decision

For the above reasons, my decision is that The Prudential Assurance Company Limited's offer to Mr B of £300 for trouble and inconvenience is fair, that it should not have to pay more, that it also should not have to pay more than its (joint) offer of £710.16 for lost interest in the case and that Mr B's claim about financial loss (with regards to the RR rights issue pursuit) is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 October 2022.

Roy Kuku
Ombudsman