

The complaint

Mrs S complains about the transfer of her holdings from Halifax Share Dealing Limited, referred to as “HSDL” or “the transferor” to a third-party provider, referred to as “the transferee”.

She’s unhappy that HSDL failed to do the following:

- Transfer £130,250 cash within a reasonable period of time.
- Transfer £9,400 worth of ‘Novartis’ shares within a reasonable period of time.
- Notify her that it needed regulatory approval before it could sell the Novartis shares within a reasonable amount of time.

To put things right, Mrs S would like substantial financial compensation for the distress and inconvenience caused as well as any financial loss suffered.

What happened

A brief chronology of events (as outlined by the investigator) is as follows:

- On 6 August 2020, Mrs S lodged her application to transfer with HSDL.
- On 26 August, HSDL chased the broker for a response, as it hadn’t received a response from either the broker or the transferee. HSDL chased the broker again on 11 September 2020.
- On 15 September 2020, the transferee provided its acceptance and the transfer was processed.
- On 16 September 2020, the custodian was notified and HSDL tried to arrange/agree the trade and settlement dates.
- On 25 September 2020, HSDL chased the transferee for a response. On 29 September 2020, the transferee said that it would get back to HSDL to arrange the trade and settlement dates.
- On 30 September 2020, HSDL arranged the transfer for UK equities.
- On 8 October 2020, HSDL chased the transferee for a response on the foreign equities and continued to do so every 10 days.
- On 5 November 2020, HSDL arranged the transfer of foreign equities. On 27 November 2020, the transferee provided a response.
- On 2 December 2020, Mrs S requested to send cash to the transferee. But, because the bank account details didn’t match, HSDL placed a restriction on the transfer.
- The transfer of shares completed on 3 December 2020 – although Mrs S feels it should’ve completed by 6 September 2020.
- On 4 December 2020, HSDL tried to contact Mrs S to move things forward.
- On 8 December 2020, HSDL contacted the transferee to arrange a stock settlement. It continued to chase the transferee until it heard back.

The Novartis shares – purchased in 2017 – caused delays to the transfer because they couldn’t be sold. Despite being asked by the transferee to sell the shares HSDL was unable

to do so. HSDL doesn't believe it has done anything wrong or breached the customer agreement.

On 12 February 2021, it contacted Mrs S to say that Novartis shares had been suspended – through the Swiss market – since 2019. It has since confirmed that it doesn't have license to trade these shares and hasn't since 2019. Mrs S maintains that if she'd been notified sooner, she would've transferred the shares to another provider or sold them.

One of our investigators considered the complaint and thought it should be upheld. In summary, she said:

- Despite numerous requests the business failed to provide the business file.
- In the absence of any evidence that the business acted fairly, she upheld the complaint.
- It took almost four months for the transfer to go through and Mrs S provided evidence of the distress and inconvenience caused. In the circumstances HSDL should pay her £250 compensation for the distress and inconvenience caused by the delays.
- She can't safely say that Mrs S suffered a financial loss as a result of the delays.
- She's unable to say that HSDL acted unfairly by not allowing/facilitating the transfer of the Novartis shares which was out of its control.
- On 12 February 2021, HSDL told the transferee that the shares had been suspended. It has since said that it hasn't been able to trade on the Swiss stock exchange since 2019 because it doesn't have a license to do so.
- If Mrs S had been made aware sooner, she might have decided differently about how to proceed. But as an execution only platform it would've been up to Mrs S to decide what action to take with the aid of independent financial advice and not HSDL.
- In the circumstances she can't blame HSDL for not being able to sell the shares as matters were beyond its control. She also can't say that the business is responsible for any financial losses suffered.
- Mrs S is however entitled to some compensation for the distress and inconvenience caused through lack of information and clarity from the business. In the circumstances the business should pay her an additional £500 compensation.
- In total HSDL should pay Mrs S £750 compensation for the overall distress and inconvenience caused.

HSDL responded and said that it agreed with the investigator's view. But Mrs S disagreed and asked for an ombudsman's decision. In summary, she said:

- Although the investigator upheld the complaint, she (the investigator) doesn't appear to address the point further in her initial findings.
- The transferee might also have been responsible for the delays but that isn't the point. HSDL should've transferred the cash held by 6 September 2020.
- She hasn't complained about the equity holdings, just the cash, in respect of which HSDL is in breach its obligation to transfer holdings within a reasonable amount of time. She requests that the investigator makes that finding.
- As per her email to the investigator, she's seeking compensation of £5,000 not £1,000 as originally claimed. The compensation of £250 is completely inadequate.
- In regard to the second part of her complaint, she's seeking £10,000 compensation not £2,000, as initially claimed.
- Her complaint isn't about not being notified that HSDL had suspended trading. But that she should've been notified of its decision not to maintain regulatory approval to sell/transfer Novartis shares, a reasonable period before it took place. Had she been informed, she would've instructed HSDL to sell or transfer her shares.
- She understands that HSDL haven't provided her with any further information. But

the information provided to her confirms that HSDL didn't tell her because it wasn't told itself until the last minute. HSDL also confirmed that if it had been notified earlier, Mrs S would've also been notified sooner. She didn't in fact learn of this until April 2021.

- By failing to notify Mrs S of the situation in good time, HSDL treated her unfairly.
- There's no evidence to justify the investigator's conclusion that HSDL was unable to sell the Novartis shares because of reasons beyond its control. She doesn't see the relevance of it being an execution only platform.
- In light of the details given in relation to the distress and inconvenience caused she would like the investigator to reconsider the award.

In the absence of a response from the business, and given Mrs S's rejection of the investigator's view, the matter was referred to me for review.

HSDL has since provided the following response:

- It's common industry practice to transfer cash after the equities have been transferred. It hasn't behaved unreasonably or treated Mrs S unfairly by doing so on this occasion.
- The £250 compensation recommended for the distress and inconvenience caused is broadly fair and reasonable and in line with what our service would award in these situations.
- HSDL hasn't refused to carry out Mrs S's instructions to transfer and/or any associated request to sell the shares, it was unable to carry out this request. The decision to prevent these instructions being carried out is due to the expiration of the equivalency agreement between the EU and Switzerland in June 2019.
- This resulted in the Swiss authorities moving to protect the Swiss markets and this removed its capability to facilitate trading and settlement for Swiss shares.
- This change is beyond its control and notifying customers of such a change is not part of its core service. Its accounts are self-managed, its service is execution (non-advisory) only.
- It's unable to trade any Swiss stocks on its platform despite 'equivalence' being restored to the London Stock Exchange (LSE) in February 2021.
- It's not, and never has been, licensed to trade on the Swiss market and previously conducted all Swiss stock trades through the German Xetra Stock Exchange (GXSE) – which is still facing the same sanctions and equivalence hasn't yet been restored – which means HSDL continue to be unable to offer the trading of Swiss securities on its platform.

Mrs S made the following final comments:

- On 13 May 2022, her IFA explained that the Novartis shares have been transferred but HSDL hasn't explained why this was possible now.
- Whilst a delayed transfer is still welcome, HSDL's failure to do it sooner is a breach of its contractual obligations towards her and its failure to treat her fairly.
- She accepts that the transfer means she's not lost the value of the investment. However, had the delay not occurred in the first place, she wouldn't have suffered distress and inconvenience between 6 September 2020 and 11 May 2022.
- She still believes the transfer should have happened by 6 September 2020 – 30 days from when HSDL logged the request.

As no agreement has been reached the matter has been passed to me for review.

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.

Having done so, I agree with the investigator's conclusion, for much the same reasons. I'm going to uphold this complaint.

On the face of the evidence, and on balance, I don't think the business behaved reasonably in respect of the delays. However, the redress recommended by the investigator is broadly fair and reasonable in the circumstances. I also note that HSDL has now transferred the Novartis shares and that Mrs S is probably in a better position now, than she was when the view went out.

The above notwithstanding, I can't say that the business has done anything wrong by not being able to transfer the Novartis shares sooner. It's more likely than not that due to reasons outside of its control it wasn't able to do so. I assume that the difficulty with the Swiss exchange and/or GXSE has improved so that HSDL was able to successfully transfer the relevant shares.

In any case, I don't think HSDL deliberately delayed matters to cause Mrs S distress and inconvenience. I also don't think the business has behaved unreasonably by not, at the outset, transferring the cash before the equity.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mrs S's strength of feeling about this matter. She has provided submissions to support the complaint, which I've read and considered carefully. However, I hope Mrs S won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mrs S, and HSDL, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but it's for me to decide, based on the available information I've been given, what's more likely than not to have happened.

I'm aware Mrs S has raised various questions but my not answering all her questions doesn't prevent me from reaching a decision in this case.

I should also make clear that I'm only considering the actions of HSDL in this case and not the actions of the transferee. Whilst I appreciate that delays can occur during a transfer – it's worth remembering that it's not always someone's fault.

I don't think it's necessary for me to reiterate the chronology, but on the face of the evidence, and on balance, despite what Mrs S says, I can't blame HSDL for the entire delays that she's experienced. In other words, I'm unable to safely conclude that HSDL is solely responsible for the delays experienced.

I'm conscious that HSDL couldn't act without the relevant information from other parties, and therefore it was only so far that it could go with the transfer request. Having dealt with similar complaints, I'm aware that for example, a transferor is unlikely to transfer any holdings until the transferee has agreed with the valuation of the funds, and confirmed whether it can

accept the holdings, usually within a specific period. I'm aware that this isn't uncommon within the industry.

In any case, I don't think HSDL managed Mrs S's expectations as well as it could've or provided a level of service that she could expect from it, including accurate and up to date information about what was going on. So, in relation to the first part of Mrs S's complaint, on balance I'm satisfied that £250 compensation is broadly fair and reasonable. I note that the transfer request logged in August 2020 was complete by December 2020, except for the Novartis shares.

Despite what Mrs S says, I'm not persuaded that the business did anything wrong by not transferring the cash first at the outset, before transferring the equities. I note it's a common industry practice, so HSDL hasn't done anything wrong by not doing so. In the circumstances I can't say that the business behaved unreasonably, or that it treated Mrs S unfairly, by not transferring the cash first.

I note HSDL says that it wouldn't normally transfer cash first unless there was an exceptional reason. But once Mrs S called the business to request the cash transfer, I note HSDL obliged fairly promptly.

I note Mrs S says that the delay deprived her of the opportunity to invest her cash, but I can't blame HSDL for this. I've seen nothing to suggest that she needed/wanted the money urgently to buy any specific shares. Even if she decided to use the money to buy shares in the future, in the circumstances that doesn't mean the business is responsible for her not being able to do so sooner, or for any loss.

Arguably Mrs S could've used the cash to purchase specific shares if that's what she wanted to do and then transfer them in-specie, but she made no effort to do so. In this instance, and on balance, I'm satisfied that the compensation for distress and inconvenience caused by the delays, as referred to above, is reasonable for this part of the complaint.

Whilst I appreciate that Mrs S was under no obligation to disclose her investment plans to HSDL, I think that this would've been evidence of her intention at the time. So, despite what Mrs S now says, on balance I can't safely say that she only wanted to transfer her cash so that she could buy specific shares.

Based on what HSDL says, its inability to successfully transfer the Novartis shares arose, in the main, from issues that were outside of its control. On balance I'm persuaded by its explanation involving the EU and the Swiss exchange and that it simply couldn't transfer the shares at the time, even if it wanted to. Despite what Mrs S says, I'm not persuaded that HSDL deliberately took steps to prevent her from transferring the shares in a timely manner.

In the circumstances, and on balance – notwithstanding the eventual successful transfer of the Novartis shares – I think Mrs S should've been furnished with the correct and up to date information – regarding the Novartis shares – much sooner, in order to manage her expectations better. In other words, HSDL should've made its position clear from the outset – I note that Mrs S still is unsure about how or why HSDL was eventually able to transfer her shares which I've taken into account.

In the circumstances I'm satisfied that Mrs S suffered significant distress and inconvenience during the entire process, chasing HSDL for answers, and not knowing what to do about the shares, for which I think an additional £500 compensation is broadly fair and reasonable.

Despite what Mrs S says, I'm satisfied that the compensation adequately reflects the time and effort put in by her to try and resolve the issues, before the shares were successfully

transferred. In my opinion the award also adequately considers her frustration by the process as detailed by her in her chronology. I'm mindful that she now has her shares, therefore any claim regarding the loss of these shares is no longer material and need not be considered by me.

Despite what Mrs S says about HSDL's obligations, I'm mindful that it provided an execution only service, therefore it wasn't responsible for providing any advice. On balance it could be argued that Mrs S (as a non-advised investor) ought to have known what was going on with the Novartis shares globally, rather than expecting/relying on HSDL to notify her. That notwithstanding, I'm upholding the complaint on the basis that it didn't provide clear and accurate information when it would've been reasonable to do so.

I appreciate Mrs S will be thoroughly unhappy that I've reached the same conclusion as the investigator. On the face of the available evidence, and on balance, I'm unable to give her what she wants beyond what I have awarded.

Putting things right

Halifax Share Dealing Limited should pay Mrs S £750 compensation for the distress and inconvenience caused.

My final decision

For the reasons set out above, I uphold this complaint.

Halifax Share Dealing Limited should pay Mrs S redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 11 November 2022.

Dara Islam
Ombudsman