

The complaint

Mr B complains about the unsuccessful transfer of his Tencent shares and cash from Halifax Share Dealing Limited trading as IWeb Share Dealing, referred to as “HSDL” or “the business”, to a third-party provider, referred to as “the transferee”.

Mr B doesn’t agree that £200 compensation offered by the business is fair or reasonable. To put things right, he wants HSDL to pay him £500 compensation for the distress and inconvenience caused.

What happened

On 11 June 2020, Mr B requested the transfer of his portfolio. All shares, apart from the Tencent shares, and some cash, were successfully transferred.

Mr B says the transfer didn’t complete because HSDL rebooked the shares on a different overseas market, even though he’d originally bought them on the German exchange (“Xetra”). But for reasons unknown, HSDL rebooked the shares on the Luxemburg market, also referred to as “Lux”). I note the transferee was unable to accept the shares, because it doesn’t deal on the Luxemburg market.

Mr B is unhappy that the shares were moved, and HSDL didn’t give any reasoning as to why this had happened. So, in February 2021, he complained to the business.

One of our investigators considered the complaint and initially – without HSDL providing a business file – decided that the complaint should be upheld. In short, she said that the Tencent shares would’ve transferred if they hadn’t been rebooked on a different exchange. HSDL provided no explanation as to why this happened, and no solution. She recommended that the business pay £300 compensation and waive the platform fees for this period.

HSDL disagreed with the investigator’s initial view and in due course provided a business file and explanation as to why it rebooked the Tencent shares on the Luxemburg exchange. The investigator having considered the additional points was persuaded to change her mind. In summary, she said:

- In November 2018, investment providers across Europe were required to adopt a new trading platform called TARGET2-Securities (“T2S”). This platform changed the process of investment settlements, so that trades are made using the central bank’s money rather than the provider’s own funds.
- The platform also implemented new rules and practices for trades. One of them was that all investments purchased in Germany with “non-German” International Securities Identification Number (ISIN) must be relocated to Luxemburg.
- The Tencent shares Mr B purchased, had a non-German ISIN, so were moved to Luxemburg in 2018.
- As a result of the new practices, the place of custody for the Tencent shares was changed – a change that was implemented across the whole of Europe – so, she’s unable to say that HSDL is at fault in this instance.
- In the circumstances, she can’t ask HSDL to pay compensation for being unable to

trade the shares via Germany, because the shares are non-tradable. HSDL can't just sell them and transfer the cash.

- HSDL are also unable to waive platform fees, but that's not unreasonable given that it has done nothing wrong.
- Mr B may wish to obtain financial advice before deciding what to do.
- HSDL accepts that it could've done more to clarify the situation. But aside from that, it was unable to control, or influence, the 'custody place' of the shares. That's why it should pay Mr B £200 compensation (reduced from £300) for the distress and inconvenience caused.

HSDL accepted the investigator's latest recommendation. However, Mr B disagreed with the investigator's view and asked for an ombudsman's decision. There's been much correspondence between him and our investigator, but in short, he made the following key points:

- The investigator's view is unacceptable. He's now expected to sell these shares himself and still pay fees to HSDL.
- Despite what HSDL said, the Tencent shares in other accounts are tradable.
- HSDL had a duty to contact him before rebooking the shares, and by failing to do so has left in a worse financial position.
- There wasn't a need to move all the Tencent shares. He could still find that the shares traded on Xetra but not Lux, so the move wasn't compulsory.
- He asked a series of questions to which he wanted answers.

Our investigator having considered the additional points wasn't persuaded to change her mind. In summary, she said:

- She's sorry the decision wasn't in Mr B's favour.
- HSDL didn't deliberately move/relocate the shares of its own accord, or do so in error, it was something it had to do.
- It might be able to transfer his shares to another provider that deals with Luxembourg securities.
- Information – in the form of correspondence between HSDL and a large international banking group ("the group") – confirmed that the Tencent shares aren't tradable via Germany because of their ISIN.
- The group also checked with a centralized clearing system for Eurobonds but were told an alternative wasn't available.
- Tencent shares that can still be traded are unlikely to have the same ISIN. In any case, she can't comment on what other providers can and can't do.
- In response to Mr B's questions she said:
 - She can't comment on why all stock broking firms haven't transferred all Tencent shares to Luxembourg. That's not the purpose of her view.
 - She's not an expert in the field and therefore isn't able to give an expert view on why the shares are listed on Germany Börse which operated the Xetra trading venue.
 - It's not unusual in the face of industry wide changes not to communicate this to investors, until after a situation has arisen that it is affected by these changes.

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.

However, on the face of the evidence, and on balance, despite what Mr B says, I think the latest recommendation by the investigator – to pay him £200 compensation – is broadly fair and reasonable in the circumstances.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr B's strength of feeling about this matter. He has provided submissions to support the complaint, which I've read and considered carefully. However, I hope Mr B 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/question raised. My role is to consider the evidence presented by Mr B, 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 that Mr B has made a service complaint. That's not something I can comment upon in this decision because it is a separate matter for our service to deal with.

Whilst I appreciate why Mr B was, and still is, unhappy with the situation. It's not something I can blame the business for.

Based on what Mr B says, it seems that earlier in the year he wasn't aware of why HSDL had rebooked his Tencent shares on a different market and he blamed the business for this and the unsuccessful transfer of his shares. I'm conscious that Mr B felt like the business had taken matters into its own hands for no reason, causing him financial loss.

I also appreciate that up until fairly recently the business hadn't made its position clear. But based what it now says, I understand that the business didn't simply choose – of its own volition and without any good reason – to rebook the Tencent shares on another platform. I'm satisfied that it did so as a result of decisions being made at a much higher level.

On balance, I don't think the business was obliged to notify Mr B of this change, and therefore hasn't done anything wrong by not doing so. I'm satisfied that the matter was outside of its purview and wasn't something that it could predict or control. It could be argued that it was simply there to implement the direction as it were. I appreciate Mr B feels like the business has as a result left him in a financially worse position, but it's not something I can blame the business for.

Although Mr B doesn't think that there was a requirement to transfer all Tencent shares to Luxembourg, based on what HSDL says, on balance, I'm unable to agree with him. It's possible there are still Tencent trades on Xetra, but those are likely to be shares that aren't excluded. I understand that all investments purchased in Germany with non-German ISINs, had to be relocated to Luxembourg, and that's why Mr B's Tencent shares were moved to Luxembourg in 2018.

I appreciate what Mr B says about other providers, but their decision to comply or not comply with the changes is not something I can comment upon.

In the circumstances, and on balance, I can't say HSDL is to blame for Mr B not being able to transfer Tencent shares and/or trade through Germany. I also don't think it's to blame for the transferor not being able to accept the Tencent shares via Luxembourg. I'm satisfied that this is not something the business has done either deliberately, or in error, to cause Mr B any distress, and more likely than not had no choice in the matter.

I appreciate Mr B has asked a number of questions, but my not answering his questions – over and beyond what the investigator has already explained – doesn't prevent me from reaching a decision in this case. On balance I'm satisfied that I've covered the material points. If Mr B still wants further answers to questions – specifically relating to his investment – I'm sure the business will assist.

I'm aware that his Tencent shares will remain with HSDL for the foreseeable future if/until they're tradable again. In the circumstance, and on balance, I don't think the business is being unreasonable by not agreeing to waive the platform fees, because it hasn't done anything wrong with regards to why the shares aren't currently tradable. And it's still entitled to charge for providing a service.

In the circumstances, and on balance, I think the £200 compensation recommended by the investigator is broadly fair and reasonable for HSDL failing to provide Mr B with an explanation sooner. I think this would've managed his expectations better, rather than him trying to transfer his shares not knowing what was going on.

I appreciate Mr B 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 him what he wants other than what I've ordered.

Putting things right

Halifax Share Dealing Limited trading as IWeb Share Dealing should pay Mr B £200 compensation for the distress and inconvenience caused.

My final decision

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

Halifax Share Dealing Limited trading as IWeb Share Dealing should pay Mr B compensation as set out above.

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

Dara Islam
Ombudsman