DRN-3721924

The complaint

Mrs B complains that Jarvis Investment Management Limited ("JIML") incorrectly executed some sell limit orders for bonds she held through it.

What happened

On 11 February 2021 Mrs B instructed JIML to sell a number of her bonds under three separate sell limit orders set to expire on 26 February 2021. These were as follows:

- 26,100 units at 85p
- 26,100 units at 90p
- 26,100 units at 95p

Despite Mrs B setting the above limit prices, JIML executed the orders at a lower price of 83.16p.

Mrs B complained to JIML on 25 February 2021 and asked it to reinstate her bonds so she could attempt to sell them again with the limit prices she'd originally set.

JIML looked into her concerns and explained that the error had occurred due to a systems malfunction. It said Mrs B had contacted it outside of the seven-day period for querying a contract listed in its terms and conditions. However, as a gesture of goodwill, JIML offered to reverse all three orders. Mrs B requested a current market price to sell the full holding from the market but was told that the price she would receive was lower than the original dealt price.

Mrs B rejected JIML's offer and instead requested one of the orders be reversed to see what price could be achieved at the current market price before deciding what to do with the other two orders. JIML declined to do this. Mrs B requested that JIML break the order into three parts to receive a more preferential price from the market, but again JIML declined as it said to do so would go against market etiquette as her intention was to sell the whole holding.

Despite previously declining to reverse just one order, JIML decided to allow Mrs B to reverse one order and sold 26,100 units at the current market price at that time of 84.41p per unit. She received £22,397.95 for this on 1 March 2021. JIML says it only allowed this on the premise that the original order amount wouldn't be broken up into three separate orders and the other two executed orders would be left as they were originally executed. Mrs B says she only accepted this as it was the least bad option she was given, but still didn't understand why JIML couldn't reinstate the bonds and her original three sell limit orders. She felt JIML had denied her the opportunity to recover her financial losses as the market price had increased yet she couldn't take advantage of it due to JIML not allowing her to reinstate the bonds and sell as three separate orders. So Mrs B referred her complaint to this Service for an independent review.

An investigator considered Mrs B's complaint but didn't uphold it. In summary she said:

- Whilst she acknowledged that the error was caused by JIML's system, she was satisfied that JIML highlighted from the outset that system failures could occur and that it would not be responsible for depreciation of values or damage caused as a result of system failings.
- JIML had sent Mrs B contract notes immediately after selling her bonds and so she ought to have queried the orders within the seven days provided under the terms and conditions.
- She felt JIML's offer to reinstate the bonds was fair and agreed that allowing Mrs B to break up the orders wouldn't be fair or reasonable.
- Mrs B agreed to reverse one trade with the knowledge that she wouldn't be able to reverse the other two orders later.

Mrs B didn't agree with the investigator's findings. She said JIML knew there was a system error, yet it failed to disable sell limit orders or to even warn her about the error. She also said that had JIML allowed her to manage each of her three orders separately, rather than insisting that they were combined into one large single order, then she would have been able to sell all three at the higher market rates she had originally set.

As Mrs B disagreed with the investigator's findings, the complaint was passed to me to decide.

I issued a provisional decision in July 2022. In this I explained why I thought Mrs B's complaint should be upheld. I include this below:

What I've provisionally 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.

JIML accepts that Mrs B's sell limit orders were executed incorrectly due to a systems malfunction and so my provisional decision will focus purely on whether it's done enough to put things right for Mrs B.

I acknowledge that JIML's terms and conditions limits its responsibility for any loss caused by systems malfunction and sets a seven-day timeframe for querying orders. However, JIML has looked beyond its terms and conditions when looking to put things right for Mrs B which I feel is fair and appropriate in the circumstances.

I understand JIML gave Mrs B a few different options in order to compensate her for any loss suffered as a result of the error. But I don't consider any of these to be fair as they don't put her back in the position she would have been but for the error. I think JIML's offer reversing the orders was fair. However, I think it should have retrospectively applied the three sell limit orders as Mrs B's clear intention was to attempt to sell her bonds at the limit prices she had set.

It's not clear from the information provided by JIML whether any of the Mrs B's sell limit orders would have been met between placing the orders on 11 February 2021 and when the orders would have expired on 26 February 2021. But if any would have, then it's clear Mrs B has lost out financially because of JIML's error.

Putting things right

So in order to put Mrs B back in the position she would have been but for the error, JIML should Look at the historic prices for her bonds between the date the sell limit orders were placed (11 February 2021) and when the sell limit orders would have expired (26 February 2021) and consider whether any of her sell limit orders would have been executed at the above prices.

If none would have been met, then I don't think JIML needs to do anything more. But if any would have been met, then JIML should calculate how much she would have received and deduct from that the amount she received on 1 March 2021 to give the total she has financially been disadvantaged by. JIML should then add 8% simple interest per annum to this total amount from the date the sell limit orders ought to have been correctly executed to the date of settlement.

Mrs B didn't agree with my provisional findings. In summary, she said:

- JIML should be asked to look at the historical bond prices and consider whether any of the three limit orders would have sold had JIML done things correctly.
- For the two orders that she said shouldn't have met their limit prices, JIML should be asked to consider what would have happened to the value of those bonds had they not been sold. She said that she believed their value was significantly higher at the end of February than when JIML incorrectly sold them.
- She should also be compensated for the distress and inconvenience caused.

JIML also didn't agree with my provisional findings as it said the error was due to a third- party error. JIML also provided this Service with a full price history for the bonds.

Following this, I set out further provisional findings to both parties. In this I explained that it was clear from the price history for the bonds that only Mrs B's sell limit order of 26,100 units at 85p would have been met between when she made the instruction on 11 February 2021 and when the order expired 26 February 2021. So if JIML hadn't incorrectly sold all of her bond units when it did, she would've retained 52,200 units. I said that whilst I couldn't be certain what she would have done with her units following the order expiring on 28 February 2021, I think it's reasonable to assume that she would've remained happy with receiving a similar price to her original sell limit orders, i.e. 26,100 units at 90p and 26,100 units at 95p. Looking at price history for the bonds, she would've been able to achieve these prices shortly after her order expired (90p would've been met on 2 March 2021 and 95p on 29 March 2021).

Considering this, I explained that I was currently minded to change my provisional findings to instruct JIML to do the following:

- Calculate what Mrs B would've received had JIML sold her 26,100 units at 90p and 26,100 units at 95p.
- Deduct from this the amount she received on 1 March 2021 for 56,200 units at 83.16p.
- Pay her the total plus 8% simple interest per annum to this total amount from the date the sell limit orders ought to have been correctly executed (90p on 2 March 2021 and 95p on 29 February 2021) to the date of settlement.

Mrs B didn't respond to these follow up findings but JIML did. It said it had done the calculations requested and said this amounted to £4,901.19. However, it said that one key determinant to the prices in the market is the law of supply and demand. JIML explained that had Mrs B retained the units, the buying and selling would have driven different price changes and so there is the potential for the price to not have met the 95p price. In summary, JIML said it believed the likelihood of Mrs B catching her ideal prices at a time that was convenient to sell was extremely unlikely.

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 appreciate there is an element of uncertainty as to whether Mrs B would’ve been able to achieve the prices she originally set after the orders expire. I also appreciate that the market is dictated by the law of supply and demand, however, I’m not persuaded that had she retained her bonds, the prices listed in the price history for the bonds would’ve changed dramatically. I’m also persuaded from Mrs B’s submissions that she was closely monitoring the prices and so I’m satisfied she would’ve have capitalised on the price rises.

The only evidence available for me to consider is the unit price history provided and so taking everything into account, I think it’s fair and reasonable to suggest Mrs B would've remained happy with receiving a similar price to her original sell limit orders, i.e. 26,100 units at 90p and 26,100 units at 95p. And looking at price history, these orders would've been met shortly after her order expired.

I’ve also considered Mrs B comments around distress and inconvenience but I don’t think any is warranted in the circumstances. I say this as this was a one-off incident and JIML did attempt to put things right with Mrs B, albeit not in line with my findings.

Putting things right

I instruct JIML to do the following:

- Calculate what Mrs B would've received had JIML sold her 26,100 units at 90p and 26,100 units at 95p.
- Deduct from this the amount she received on 15 February 2021 for 52,200 units at 83.16p.
- Pay her the total plus 8% simple interest per annum to this total amount from the date the sell limit orders ought to have been correctly executed (90p on 2 March 2021 and 95p on 29 March 2021) to the date of settlement.

I understand JIML has already carried out these calculations, however, it will need to recalculate the interest in line with the date of settlement.

My final decision

My final decision is that I uphold this complaint and instruct Jarvis Investment Management Limited to compensate Mrs B in line with the putting things right section above.

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

Ben Waites
Ombudsman