

## **The complaint**

Mrs H complains that Lloyds Bank PLC ('Lloyds') have wrongly asked her to demonstrate that she does not hold citizenship of another country. She doesn't believe she's been treated fairly or reasonably in relation to this matter.

Mrs H brings this complaint with the help of a relative. But for ease of read I will refer to Mrs H throughout.

## **What happened**

Mrs H holds an account with Lloyds. She was born in the United States of America, but moved here as a child several decades ago. She became a naturalised UK citizen in her teens, and has lived in this country ever since.

Mrs H says that she was therefore surprised when Lloyds asked her for documentary proof that she does not retain US citizenship. It sent her a Tax Residency Self-Certification form. That initial request came at a time of great personal distress to Mrs H, and she says that the request added to this. Mrs H sent a copy of her passport, together with an image confirming her naturalised UK citizen status.

Lloyds says that the request is based upon its duties under the Common Reporting Standard ('CRS'). It says that, while Mrs H has lived in this country for a long time, the documents she has provided do not show that she has renounced her US citizenship in law. It says that it needs to confirm the position in relation to this in order to comply with a regulatory requirement. It also says that the information which has been provided so far does not show that Ms H is no longer a US citizen, but only that she is a UK citizen. It says that only a Certificate of Loss of Nationality of the United States will demonstrate the loss of her US citizenship for the relevant rules.

Mrs H says that this evidence has not been needed before, and that the certificate the bank has asked for is an expensive one. She says that this is unnecessary as she is clearly a UK citizen with no ongoing links to the USA. She says that she has never worked in the USA and that it would be inappropriate to share tax information about her with the authorities in the USA.

Our investigator thought that Lloyds was entitled to require the information it had requested, but they thought that the timing of the request, together with the fact that the bank could not explain the delay, meant that it ought to put things right. They thought that the bank ought to pay Mrs H £200 to reflect this.

Mrs H did not think that the information being requested was appropriate, and Lloyds did not agree that it had treated Mrs H unfairly. So this has come to me for a decision.

## **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 should be clear from the outset that I am not dealing with the question of whether the current USA taxation arrangements are reasonable. That isn't something for me to express a view on. The issue at hand is whether Lloyds is acting reasonably towards Mrs H in asking her to provide it with answers that enable it to respond to its obligations under those taxation arrangements.

The CRS requires Lloyds to gather certain customer information and to report it to the tax authorities. One of the ways that this is done is by sending a Tax Residency Self-Certification form. Lloyds's website describes one of the triggers for sending a Tax Residency Self-Certification form as being '*a review of your accounts has indicated that we currently don't hold up to date information on your tax residency or whether you are a US citizen.*'

If Mrs H is a US citizen, then the US tax rules mean Lloyds must complete a report about her. For the purposes of the CRS, the bank has a legal obligation to share her details as a reportable person under those rules. While Lloyds have not been able to identify the reason that the account was flagged, I am satisfied that given its applicability it is more likely than not this provision which has led to the sending of the requests for information.

Mrs H was born in the USA. On the face of it, because of this she meets the definition of a US citizen. If she is, then Lloyds is obliged to share the information I've mentioned above. It stands to reason that Lloyds needs to make enquiries of Mrs H to establish whether there is any basis to conclude that she is not a US citizen.

While Mrs H takes the view that the US is the country of her birth but to which she retains no links, that would only be the case if she had renounced the citizenship she acquired at birth. If Mrs H hasn't formally renounced her US citizenship, then she still holds that link with the country. The fact she is a naturalised British citizen does not automatically cause her US citizenship to cease.

Mrs H's US citizenship is a rebuttable presumption that it is reasonable for Lloyds to adopt, given where she was born. Lloyds has asked Mrs H to provide appropriate evidence to rebut this presumption. I am satisfied that it was reasonable for the bank to consider that a Certificate of Loss of Nationality of the United States is needed in order to demonstrate that Mrs H is not resident in the US for tax purposes. In the absence of this, and despite Mrs H's British passport and naturalisation, I can't fairly require the bank to breach its legal obligation to report information under the CRS.

Lloyds has sent the same forms a number of times now, and has not yet received a Certificate of Loss of Nationality of the United States. But I do not think that it has been appropriately clear as to why precisely it needs this, and why the documentation already sent was not enough. This is a complex question, and I think it should have recognised this and made a greater effort to explain the situation in relation to Mrs H's circumstances. I think that clarifying that this is an obligation/requirement on it to complete, rather than relating to Mrs H's general circumstances, would have helped to lessen the distress which has been caused.

I think that the bank's failure to communicate appropriately in relation to this issue has caused Mrs H a good deal of distress at a time. I think that £200 appropriately reflects this.

I have considered what Mrs H says about the cost of obtaining the required certificate. But the bank is not to blame for either that certificate being needed, or for the cost of doing so. I cannot say that the bank has acted unfairly or unreasonably in relation to this. Unless it is

obtained and provided to Lloyds, then Mrs H's information can reasonably be shared under the CRS.

Finally, I have noted the concerns raised about Lloyds's handling of the complaint, including information it's recorded (or not recorded) and how some information has been reflected. But as the investigator explained, complaint handling itself isn't an activity we cover under our rules. So, I don't intend to comment on this further. Fundamentally, I have given my answer on the complaint we can consider (what's at the heart of the issue here) and what if anything the bank is required to do.

### **My final decision**

For the reasons given above, my final decision is that Lloyds Bank PLC should pay Mrs H £200. I make no other award or direction.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 24 August 2023.

Sarita Taylor  
**Ombudsman**