

The complaint

Mr S complains about Barclays Bank UK PLC ('Barclays'). He says that Barclays has failed to send him share certificates for some investments he holds. He says other platforms have been able to do this. Mr S says that this has led to him losing money as he couldn't sell his shares. This has caused him a great deal of stress and anxiety.

What happened

Barclays, and Mr S, have explained that Mr S owned some shares in a business called Tizania Life Sciences (TILS). In 2020 this business decided to de-merge part of its operations. This new business was Accustem Sciences (ACCM). TILS initially allocated one new ACCM share for each TILS share held.

The aim of this was to ultimately list as an independent new business on a United States stock market (called the corporate action). A second scheme of arrangement in 2021 led to investors receiving one share in US registered Accustem Inc (ACUT) for every 20 shares it held in ACCM. I understand that TILS and ACUT now trade on a US stockmarket.

Barclays has said that it received these new investments in bulk as a nominee company. It says they are American Depositary Shares (ADS) which can't be held electronically with a broker. They are held with the business itself who issue American Depositary Receipts (ADR) to confirm the individual holdings. Barclays says that these ADR's would be held by Barclays as Mr S' nominee.

Mr S has complained to Barclays about the delay in being able to trade the shares he owns. He says Barclays has failed to issue share certificates to allow him to do this.

In response to the complaint Barclays has outlined several problems it has faced in facilitating Mr S' trade in the investments. I won't detail all these here, as both parties to the complaint are aware of them, but in summary:

- Barclays says there was a delay in receiving the ADR's as they needed to be sent by physical post from overseas. They were lost in the postal system several times. I understand they were received in May 2022.
- At the time of the corporate action Barclays did not offer international share trading. Whilst it now does this, the setup of this facility had taken some time.
- Added to this the rules and regulations, and other legal and ownership issues, were very complicated in what was a difficult cross border trading situation. Barclays has provided information about the legal and administrative issues it has faced when starting to facilitate trading in this investment.

At the time of complaint Barclays said that until the problems with demonstrating the ownership of these stocks were resolved, and it fully offered international trading, it wouldn't be able to do what Mr S wanted. I understand this is now partially resolved and Mr S can trade in his TILS shares.

And Barclays says that it should have responded to Mr S' questions a bit better and it offered £200 compensation for this. I understand this has been paid to him.

Mr S has brought his complaint to the Financial Ombudsman Service. One of our investigators has considered the complaint but has not upheld it. She said that:

- The ADS couldn't be held electronically, and Barclays had not been provided with physical shares. The delay in providing the physical shares was outside of Barclays' control.
- The regulations and laws (and so on) about the custody of client assets are such that Barclays cannot trade in these shares unless they have certainty of ownership.
- Barclays is entitled to only offer certain services and it's not reasonable for the Financial Ombudsman Service to say it should change this.
- There had been some confusion in the responses provided by Barclays over time, but the £200 was reasonable compensation for this.

Mr S didn't agree, and he thinks that this is a situation where Barclays' supplier has failed to provide a product and so Barclays should refund its customer, as would happen in a retail situation. He says that Barclays, as the share-dealer has a duty to send out share certificates of a listed company that is on their platform.

Mr S went on to say that he had been repeatedly told that when Barclays started dealing in international markets then these ADR's would be converted to shares and he could trade them. Barclays is now dealing in international shares, but this has not happened. He has been able to deal in these shares on other platforms.

Our investigator didn't change their opinion and the complaint was passed to me to issue a final 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.

This is a complicated situation the root of which is the investment in the business that Mr S had changed from being UK based to trading on an international exchange. And this has led to the delays Mr S faced with the new investment being allocated to him, and for him to be able to trade in them.

Barclays has provided some detail about this situation. And about the rules that concern the custody of clients' assets which it thinks apply in this instance. I won't detail all of this here as a summary of it is in the 'what happened section of this decision. And both parties are fully aware of it.

But, I think it's reasonable to say that in order for Barclays to have been able to allocate the investment it needed proof of ownership from the business that Mr S had invested in. And in this case, it had to take the form of the physical certificates, and other documents. As far as I can see this took a significant time. Barclays wouldn't have had any control over this.

Added to this, at the time of the corporate action, Barclays didn't offer international trading. Whilst I understand it now does this, it essentially needed to set this up before it could assist Mr S. And it has provided detail about what this entailed, such as liaising with third parties and legal professionals in the US. And all this, understandably, took longer than Mr S, and I think Barclays, would have liked.

Not all businesses offer all trading services, and whilst this delay was very frustrating for Mr S, I don't think it would be fair to uphold a complaint on the basis that Barclays should offer a service that it ordinarily did not.

And it is fair to say that this wasn't a situation that has been brought about by Barclays. It wasn't involved in the corporate action. There were complications that it wouldn't have had any control over and, as far as I can see, it hasn't delayed rectifying this.

Mr S says he has been able to buy these shares on other platforms. And I don't doubt this is the case - they are tradeable on a US stockmarket. But it's a different situation to the shares he was allocated as part of the de-merger where the problems lied with proof of ownership of an asset that had changed.

And I don't think this is similar to a retail situation where the retail and supplier relationship has broken down. Barclays wasn't arranging to supply a product here; Mr S has invested himself and Barclays provided a service that allows him to trade in this asset. I think events that are beyond its control have made it very difficult to provide this service.

I agree that Barclays' response to the complaint was confusing at times, and this will have caused Mr S some distress or inconvenience. But the £200 compensation it has paid for this is reasonable.

My final decision

For the reasons set out above, I don't uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 April 2024.

Andy Burlinson
Ombudsman