

The complaint

Mrs M has complained about HSBC UK Bank Plc (HSBC). She said HSBC delayed her being able to sell nil paid rights on shares she held, and during this time the value plummeted.

Mrs M said HSBC are responsible for her investment losses and she thinks it should pay her compensation for this.

Mrs M has been represented in her complaint by her husband, Mr M and I have referred to both in my decision.

What happened

Mrs M held shares in Tui, through an investment account with HSBC. In March 2023 it was announced by Tui that it was going to raise funds through a rights issue. Mrs M was informed by HSBC that each Tui shareholder was able to either buy additional shares at a reduced price, sell their rights to do so or let the rights issue lapse.

Mrs M wanted to sell her rights. Mrs M was informed by HSBC that she could do so from 30 March 2023 and so Mr M contacted HSBC on behalf of Mrs M on that date to sell them. He said he was unable to. He said HSBC told him Mrs M didn't have access to the rights yet. Mr M said he followed up the following day and got the same answer.

Mr M said that whilst he was unable to do anything through HSBC, the value of Mrs M's rights plummeted. He said he continued to try and get through to HSBC by phone to sell them and he was unable to. Mr M said Mrs M's rights should have been on her account for her to sell. He said HSBC are responsible for this and it should pay for the investment losses she made. He complained on behalf of Mrs M to HSBC about this.

HSBC said in response that it was unable to find any errors made in how it dealt with the TIU rights issue and Mrs M's allocation. It said it received the rights on 30 March 2023 and applied them to Mrs M's account on the following day. It said it was unable to guarantee when rights are available to sell, and it was not liable for any losses that had come about through market fluctuations.

Mrs M was not happy with HSBC's response and referred her complaint to our service.

An investigator looked into Mrs M's complaint. He said he could see HSBC had received the rights on 30 March 2023 and that HSBC said these were credited to Mrs M's account on 31 March 2023. He said HSBC confirmed the rights were tradable at some point on this day.

The investigator initially upheld Mrs M's complaint and said she was unable to trade on the day HSBC said she could. He initially concluded HSBC were responsible for a delay and so it should pay Mrs M any investment losses incurred.

HSBC then provided new information including a call recording from 3 April 2023. The investigator then sent a second view and didn't uphold Mrs M's complaint. He said after

considering the new information, he could see that when Mr M on Mrs M's behalf, could sell the shares and was given an opportunity to on 3 April 2023, he didn't. He said Mr M waited for a day and sold the rights then. The investigator concluded that it wouldn't be fair for the business to pay compensation as it is not clear to him, that Mr M on behalf of Mrs M would have sold at the earliest opportunity.

Mr M on Mrs M's behalf is not in agreement with the investigator's second view. He said HSBC should be at fault for not having the rights ready to sell when it said it would. He said Mrs M was denied the chance to sell them sooner. Mrs M's complaint has been passed to me, an ombudsman, to look into.

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 have independently drawn the same conclusions as the investigator and am not upholding Mrs M's complaint. I will explain why.

To recap, Mrs M held Tui shares in her investment account with HSBC. In March 2023, Tui announced a rights issue where all shareholders would get the option of either buying new shares at a discounted price or they would have the option to sell their rights to do so. There was a third option to do nothing. Mrs M wanted to sell her rights.

Mr M said HSBC didn't give Mrs M the opportunity to sell her rights when she wanted to. Mr M said HSBC received Mrs M's rights issue on 30 March 2023, and, on her behalf, he wanted to sell them on this day.

Mr M said he contacted HSBC on 30 March 2023 and the following day, and he was told on a number of occasions by HSBC that it couldn't sell them yet. Mr M said by the time he was able to sell them on Mrs M's behalf, the value of her rights had plummeted, and she was out of pocket.

HSBC has told our service that Mrs M was able to sell her rights on 31 March 2023, but it hasn't been able to confirm when on this day. HSBC has explained that although it received the rights issue on 30 March 2023, it needed a day to credit the nil paid rights to Mrs M's account. It maintains that these rights were available to sell on 31 March 2023 at some point. It has also referred to the terms on Mrs M's account about corporate action. It said it is not able to guarantee when rights are available to sell, and it has made this clear within the terms and conditions for Mrs M's account.

I have considered the explanation HSBC has provided. Having done so, I haven't been able to ascertain exactly when HSBC applied the rights issue to Mrs M's account. Mr M has said he tried to sell them on 31 March 2023 but couldn't. I have been able to see a call log of the times Mr M called HSBC on 31 March 2023. It may well have been that when Mr M called HSBC on the occasions that he did, they were not yet available to sell, but later in the day they were. The rights had been applied to Mrs M's account on 3 April 2023 and were available to sell then. So, they would have been applied by HSBC between 31 March 2023, after Mr M had called it, and the next trading day 3 April 2023.

In any case, I don't need to make a finding on when HSBC applied the rights to Mrs M's account or whether it had made any errors in doing this. This is because on balance, I can't safely conclude Mr M, on Mrs M's behalf, would have sold them earlier than he did anyway. I say this because, Mr M did call on 3 April 2023, and he was told he was able to sell Mrs M's rights on this occasion by HSBC. But rather than do that, and sell them at the earliest

opportunity, he decided, as was his right as Mrs M's representative, to sell them the following day on 4 April 2023.

I consider, on balance, that Mr M was deciding as to when to sell Mrs M's rights, rather than have the mindset of selling them at the earliest possible opportunity. This, I think, makes a difference as to what I need to consider more likely than not would have happened if Mrs M had been given the opportunity to sell her rights earlier. I can't fairly conclude that Mr M on behalf of Mrs M would have sold Mrs M's rights anyway if he had been given the opportunity to sooner. I think on balance, Mr M would have decided when to sell Mrs M's rights and I don't think I can fairly say this would have been sooner than it was.

In conclusion, I have read what happened when HSBC applied the rights to Mrs M's account. I don't need to draw any conclusions about whether HSBC were at fault on this occasion. This is because even if I did conclude HSBC ought to have put Mrs M's rights on her account earlier than it did, I don't think I can fairly say Mr M on behalf of Mrs M would have sold them sooner than he did, for the reason I have given.

I appreciate that my decision will be disappointing for Mrs M and Mr M as her representative, and I acknowledge the strength of feelings in the submissions provided. But based on everything I have read and the findings I have given, I don't uphold Mrs M's complaint.

My final decision

My final decision is that I do not uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 6 March 2024.

Mark Richardson
Ombudsman