

## The complaint

Mr P complains that Barclays Bank Plc ('Barclays') failed to notify him of corporate actions in relation to some investment bonds he held.

## What happened

Mr P had a Smart Investor account provided by Barclays. In the account he had some bonds. They were due to mature on Friday 13 May 2022. That meant the bonds were due to be redeemed on that day and the bond issuer was due to pay back to Mr P the capital he'd invested in the bonds by buying them.

On the afternoon of Friday 13 May 2022 (at 15:41) the bond issuer made a statement saying repayment would be delayed and the bonds were being refinanced.

On Tuesday 17 May 2022 at 8am the London Stock Exchange (LSE) announced that, at the request of the bond issuer, it had delisted the bond from trading on the LSE.

Mr P said he was unaware of these developments until sometime later.

The issuer of Mr P's bonds subsequently went into administration without having redeemed the bonds. Through the administrator, Mr P received back some but not all of his capital.

On 9 January 2023 Mr P complained by letter to Barclays that it hadn't notified him about corporate actions and hadn't responded to repeated emails and phone calls from him about that. In relation to corporate actions Mr P raised the following points in his complaint letter:

After making enquiries to Barclays in May 2022 about his holdings he became aware that 'a number of Notices had been issued to the London Stock Exchanges and others by the Bond Issuer which were not listed as a "Corporate Action" via [Mr P's] log in account pages'.

- Failure to bring the notices to Mr P's attention caused him to lose the opportunity to act in a timely manner to make investment decisions, including potentially selling his bonds in a trading window created by the May 2022 notices.
- Mr P's emails had included details of other actions Barclays hadn't notified him of.

On 9 February 2023 Barclays replied to Mr P's complaint. It said it partly upheld the complaint. It said it didn't make an error by not notifying him of the bond going into administration because bond holders weren't required to vote on that. And under its terms of service, Barclays said, it didn't notify customers of mandatory events. But for not replying promptly to communication from Mr P, Barclays offered him £50 compensation.

Also on 9 February 2023 Barclays notified Mr P of a corporate action relating to his bonds which gave him the opportunity to vote on an extraordinary resolution.

Mr P referred his complaint to this service. In summary, he made the following key points:

- In its response to his complaint Barclays implied it would bring to his attention any

corporate notice requiring bondholders to vote. But it hadn't notified him of the launch of consent solicitation of October 2020 which invited bond holders to vote.

- The '*Essential Guide to Smart Investor*' ('the Guide') which Barclays gave Mr P when it launched the Smart Investor service said Barclays would inform customers of corporate actions.
- The notices of May 2022 were particularly important because they might have opened a trading window in which Mr P could've sold bonds.

### **Our Investigator's view**

One of our Investigators looked into Mr P's complaint. He said to act in Mr P's best interests and treat him fairly Barclays should inform him of corporate events. And the Investigator said Barclays usually informed customers of certain types of corporate events, if Barclays was notified of the events via CREST or directly. But the Investigator said the type of event Mr P complained about wasn't one Barclays should be obligated to inform him of because it was a mandatory action and so didn't required any input (such as voting) from Mr P. And it also wasn't a corporate action that Barclays had been informed about.

Mr P disagreed with the Investigator's view. He said the Guide from Barclays said '*We'll notify you of corporate actions and you can respond easily online*'. And Barclays didn't say this applied only to corporate actions notified to it through CREST or to Barclays direct.

The Investigator said Barclays couldn't be expected to proactively seek information about its customers' investments. And it was reasonable for Barclays to rely on CREST and direct notification for relevant events to pass on to its customers.

Mr P remained dissatisfied. Because no agreement could be reached, the complaint was passed to me to review afresh and make a decision.

### **Further enquiries with Barclays**

In responding to Mr P's complaint Barclays said the relevant corporate action was the bond-issuer going into administration. But Mr P's complaint had mentioned other corporate actions. I asked Barclays about the other corporate actions that Mr P mentioned. I also asked Barclays to comment on how its services were described in the Guide.

About the October 2020 and May 2022 corporate actions Barclays said, in summary, the following:

- Barclays had no regulatory requirement to notify Mr P of these announcements.
- Section 3.1 of the terms and conditions said Barclays wasn't obligated to inform Mr P of these announcements.
- Barclays offered a self-service, execution-only service and would only communicate corporate actions requiring direct input, or where the regulator required notification.
- Mr P, as owner of the shares, had a responsibility to monitor his shareholdings to ensure they continued to meet his investment criteria.
- The information was released to the public domain and Mr P could've accessed it.
- Barclays can only tell customers about corporate actions if Barclays is informed of the actions via CREST. And CREST didn't inform Barclays of these announcements.
- The 17 May 2022 notice announced the cancellation of trading on the LSE, so it was

a mandatory action, and so Barclays wasn't obligated to notify customers of it.

- Barclays had no obligation to notify Mr P of the October 2022 announcement.

About the Guide Barclays said, in summary, the following:

- The terms and conditions made clear Barclays would communicate corporate events and not corporate news.
- The terms and conditions said Barclays would, where appropriate, inform the customer of any event in which a decision is required.
- The Guide said:
  - Barclays would inform customers about events which '*[they] can respond to easily online*'
  - If no response was needed, Barclays wouldn't communicate events
  - '*Notifications will be sent when you need to make decisions*'.
- The Guide didn't say Barclays would communicate all events or news or other information, only corporate actions which require a decision.
- Neither the terms nor the Guide would lead clients to expect Barclays to provide all possible information regarding an investment.

### **The Smart Investor account**

I've looked carefully at the terms and conditions of the Smart Investor account and the Guide that Barclays gave its Smart Investor customers.

The terms of the account included the following information about corporate actions:

#### ***'Corporate actions and voting rights***

*Unless we agree otherwise with you ....*

- (i) *we will not be responsible for taking any action in relation to these matters, except to give effect to Default Action if you do not give us an Instruction;*
- (ii) *to the extent permitted by Regulatory Requirements we will not be obliged to notify you or obtain your Instructions in relation to these matters;*
- (iii) *if we do seek but do not receive your Instructions by any deadline stated by us, we will take such action as we consider appropriate (including taking no action); and*
- (iv) *if we seek and receive your Instructions by any deadline stated by us, we will take such action as we reasonably consider appropriate, including action that does not accord with your Instructions where following such Instructions is not reasonably practicable.'*

When Barclays launched the Smart Investor account it also gave its customers the '*Essential Guide to Smart Investor*' ('the Guide'). Barclays gave Mr P a copy of the Guide in 2017 when it converted his Barclays Stockbroker account to a Barclays Smart Investor account.

In both the 2017 and 2023 versions, the Guide said the following about what Barclays would do in respect of corporate actions and what information it would give its customers:

‘[page 2]

*The decisions will always be yours and planning where to invest your money is up to you. Smart Investor won’t offer personal recommendations, but it will give you the help and support you need to make your own investment decisions.*

[page 3]

### ***What’s new***

*This page lets you know what’s coming on the new service, but please read on as there’s lots more information and details of key changes throughout this brochure.*

...

### ***More informed decisions***

...

*We’ll notify you of corporate actions and you can respond easily online.’*

[page 5]

<i>Feature</i>	<i>Key information and what’s changing</i>
<i>Corporate actions</i>  <i>Find out more: page 13</i>	<ul style="list-style-type: none"><li>• <i>You can view full details of corporate actions, and make your elections where appropriate online</i></li><li>• <i>Notifications will be sent when you need to make decisions – go paperless and we’ll notify you by email or text</i></li></ul>

[page 8]

### ***What’s included in your custom fee?***

*All account maintenance, such as:*

- *Processing corporate actions*

[page 13]

### ***Managing your account***

*Smart investor gives you all the tools and support you need to manage your account online.*

### ***Corporate actions***

*We’ve made improvements to our corporate actions process. Smart Investor will offer a useful alert marker online next to any investments in your portfolio where a corporate action is announced so you can easily identify events which may impact*

*your investments.*

*We'll also notify you of corporate actions by email or text if you go paperless. If you haven't opted to go paperless, we'll write to you when a response is required on a corporate action (voluntary).*

*You can choose to provide your corporate action election(s) online or over the phone up to 48 hours before the market deadline. When making your corporate action election you'll need to have available cleared cash in your account to cover the full cost of your election.*

...

### **My provisional decision**

I issued a provisional decision in which I said I was minded to uphold Mr P's complaint. I said I'd consider any further submissions from Mr P and Barclays before making a final decision. Mr P said he had nothing to add. Barclays made no comment on my provisional decision. I haven't departed from my provisional conclusions so I've repeated them below as my 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.

Having done so, I'm upholding the complaint. I'll explain why.

This complaint concerns what Barclays does in relation to corporate actions, and to an extent what things Barclays considers 'corporate actions'. The term isn't defined in the account's terms and conditions, but I'm satisfied it's accepted in the industry as denoting the situation when a company puts out a notice that it may do something which could affect its shareholders.

It's not in dispute that Barclays didn't notify Mr P of the specific actions he's mentioned in his complaint. What is in dispute is whether Barclays has acted fairly and reasonably by not doing so.

In general, where a business is the legal owner of an investment which it holds on behalf of a customer it's in the customer's interests for the business to pass on to the customer any information it receives that might affect the investment. The customer doesn't have the benefit the business does, in terms of being sent information as the registered shareholder. In that regard the business is holding the shares on trust for the customer, as the customer's agent. And so the business ought to have regard for the customer's interests when thinking about what to pass on and what not to.

In this case Barclays said it didn't receive notifications from CREST or from the bond issuer of the actions Mr P has mentioned. I tend to agree with our Investigator that it wouldn't be practical for Barclays to proactively seek information outside those channels in order to communicate relevant actions in relation to all of the investments held by its customers, particularly when Barclays is providing an execution-only service as is the case here.

But I've found that – irrespective of whether it was reasonable for Barclays not to inform Mr P of these particular actions – Barclays gave Mr P information which led him reasonably to believe Barclays *would* notify him of corporate events, including the ones he's mentioned in bringing his complaint. And that wasn't fair and reasonable.

In reaching this view I've carefully considered the terms and conditions of the Smart Investor account, and the wider context of the terms and conditions, in particular the other information Barclays gave Mr P about the account. I've also taken into account the rules of the regulator, which say the way a business communicates with its customers must be clear, fair and not misleading.

As Barclays has said in its response to Mr P's complaint, the terms and conditions of the Smart Investor account don't, on the face of things, oblige Barclays to tell account holders about corporate actions. The terms say, '*... we will not be obliged to notify you or obtain your instructions in relation to these matters*'.

But the relevant terms are preceded by the words: '*Unless we agree otherwise with you...*'. This suggests Barclays will in some circumstances be obligated to notify customers about corporate events – specifically, when Barclays has agreed to do so.

And I think the Guide that Barclays gave Mr P gave the impression that Barclays would notify him about corporate events. Where the Guide says '*We'll notify you of corporate actions and you can respond easily online*' it's not clear that Barclays means it will notify of events requiring a response only. This information can reasonably be taken to mean Barclays will notify customers of all actions, and that, if there is a need to respond, then the response can be made online. A similar impression is created by the words '*You can view full details of corporate actions, and make your elections where appropriate online.*' And the Guide appears to focus on the method of notifying customers where it says: '*Notifications will be sent when you need to make decisions – go paperless and we'll notify you by email or text*'.

The Guide suggests it will use an online marker to show customers that a corporate action has been announced. And it says this will be done for '*any investments in your portfolio where a corporate action is announced*'. The purpose of the online marker is '*so you can easily identify events which may impact your investments*'. This suggests Barclays will apply a marker to an investment when any corporate action is announced that might affect the investment, not only when an action is announced that will give the customer the opportunity to vote or otherwise respond to the action.

When the Guide goes on to say it will '*also notify [customers] of corporate actions by email or text if you go paperless*' it suggests customers who've gone paperless will receive an email or text as well as the '*useful alert marker online*'. And customers who haven't gone paperless will be written to when a response is required. Although the Guide says here that paper notifications will be sent only when a response is required, it doesn't make clear that any and all notifications will only be made when a response is required – or that notifications might not be made at all if Barclays doesn't receive the notifications itself.

The Guide adds to the impression that Barclays will keep customers informed by using phrases such as '*More informed decisions*', '*full details of corporate actions*' and '*all the tools and support you need*'. The Guide doesn't say, for example, that consumers shouldn't rely on notifications from Barclays and should check other sources to find out about corporate actions.

Barclays has said the Guide commits to notifying customers of voluntary events only. But I don't think it's sufficiently clear to communicate that message. I think it could cause a customer to reasonably expect that Barclays would, at a minimum, provide an online marker when any corporate action was announced, and also send a message to affected customers any time the customer needed to respond to a corporate action. In this case, I'm satisfied Mr P did receive the impression from Barclays that it would provide notifications in all cases, whether via an online marker or otherwise.

I understand Barclays can't pass on information it doesn't receive. And, as I've said, I don't think it'd be reasonable for Barclays to have to proactively seek and provide all relevant information for all the investments its clients hold where information isn't passed on through the channels Barclays uses. But if Barclays doesn't have mechanisms in place that allow it to reliably pass on notifications of corporate actions as a matter of course, then it was unfair to give Mr P the impression it would do so.

Consumers can reasonably expect to receive information they're told they will receive. And the information Barclays gave Mr P wasn't clear enough for him to know he couldn't rely on receiving notifications of corporate actions from Barclays. Without knowing he wouldn't be able to rely on Barclays for that, Mr P couldn't know what steps he should reasonably take to inform himself about his investments. But Barclays has said it would be reasonable to expect Mr P to take some steps monitor his investments generally, as an investor using a self-service platform.

Overall, Barclays gave Mr P information that failed to be clear, fair and not misleading. To that extent, I find that Barclays hasn't treated him fairly. If this had caused Mr P a direct financial loss then I'd need to think about whether Mr P might have shared responsibility for that loss by not taking reasonable steps to keep himself informed. But in the circumstances of this complaint I don't think being unaware of the corporate actions in question has directly led to Mr P suffering a financial loss.

The corporate action of October 2022 notified bond holders of an opportunity to vote. Because he wasn't aware of it, Mr P didn't exercise the right to vote. I think it's fair to say, on the balance of probabilities, that Mr P would've exercised the right to vote if he'd known about it, but his vote wouldn't have changed the ultimate outcome that flowed from the corporate action. So, although Mr P is rightly frustrated by not having participated in the corporate action, I'm not persuaded it made a material difference to the value of his investment.

I'm also not persuaded that being unaware of the May 2022 events caused Mr P a financial loss. I understand he has suffered a loss. And I certainly sympathise with his position on that front – Mr P's bond issuer went into administration without having redeemed the bonds and I understand Mr P had only some of his capital returned. But I'm not persuaded Mr P's loss would've been avoided if he'd known sooner than he did about the corporate actions of May 2022.

Mr P said he might've had a window of opportunity between the May 2022 announcements to sell his bonds before they were delisted from the LSE. But I don't think the bonds were traded between the two announcements which were made on the afternoon of Friday 13 May 2022 and the morning of Tuesday 17 May 2022. It's unlikely Mr P would've been able to sell his bonds then even if he'd wanted to.

I also can't confidently say Mr P would've tried to sell his bonds even if there had been an opportunity to trade between the May 2022 announcements. The 13 May 2022 announcement said redemption of the bonds was delayed – it didn't say they'd be delisted from the LSE in a few days' time. And it wasn't yet known that future attempts to redeem the bonds would be unsuccessful, or that the bond issuer would ultimately enter administration. So I can't conclude that not knowing about the May 2022 announcements caused Mr P to miss out on selling his bonds.

I also note that Mr P could've informed himself of the situation if he'd logged into his account once the bonds were due to have been redeemed. Had he seen that the bonds weren't redeemed as expected but that Barclays hadn't provided any notification of a corporate action, he could've taken steps to find out why – and I expect he would've easily found out

about the announcement made by the bond issuer on 13 May 2022. Conversely, had Mr P not logged in at that time, then, even if Barclays had placed an alert marker on the investment, Mr P wouldn't have seen it. So, again, I don't think the actions of Barclays prevented Mr P from selling his bonds between the May 2022 announcements if there was a window in which to do so.

In my view the impact on Mr P of the shortcomings by Barclays was distress and inconvenience. Barclays gave Mr P information that failed to be clear, fair and not misleading. Based on that information Mr P developed an expectation that Barclays would provide notifications of corporate actions. Mr P was unpleasantly surprised when he found that Barclays hadn't been keeping him updated about corporate actions announced by the bond issuer. I can understand this was frustrating for Mr P, based on the expectations he'd developed about what Barclays would do.

### **Putting things right**

To put things right Barclays Bank Plc must pay Mr P £100 for the distress and inconvenience its shortcomings caused him. This amount is separate from and in addition to the £50 Barclays offered Mr P for a delay responding to his communications.

### **My final decision**

For the reasons I've set out above, my final decision is that I'm upholding Mr P's complaint. Barclays Bank Plc must pay Mr P the amount set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 18 April 2024.

Lucinda Puls  
**Ombudsman**