DRN-4731585

The complaint

Mr L has complained that the process offered by Equiniti Financial Services Limited ('EFSL') for him to sell his shares discriminated against him as a non-UK resident and caused him a financial loss.

What happened

Mr L lives outside of the UK. During an earlier time living in the UK he acquired shares in a company that I will refer to as 'G'. He also had another share holding in a company that I will refer to as 'H'. It is the G share holding which forms the basis of this complaint.

On 30 August 2023 Mr L contacted EFSL to discuss how he could sell both his share holdings. He was told that as a non-UK resident he would have to use EFSL's postal share dealing ('PSD') service, and it sent him forms for this. EFSL explained that it did not offer online dealing facilities for non-UK residents.

On 1 September Mr L had a further discussion with EFSL and it was mentioned that under its PSD process, sale proceeds are issued as cheques. At this time, Mr L was principally concerned with arranging a sale of the H shares. He explained that banks in the country he resides in do not accept cheques. EFSL said that when returning the PSD form, if Mr L provided additional instructions asking for the sale proceeds to be paid directly into his bank account, it would arrange this. Proceeds from the sale of the H shares were paid into Mr L's bank account in October. In terms of the G shares, Mr L decided to delay requesting a sale until a quarterly dividend had been paid.

On 12 October Mr L sent the completed PSD form for selling the G shares to EFSL via registered mail, with priority and tracking options. EFSL has said that it received the form on 2 November.

On 2 November EFSL sent a letter in the post to Mr L stating that it was unable to process the sale of the G shares. It said regulations required it to verify the identity of its customers and its usual process was to use an external reference agency, but on this occasion that had failed to verify Mr L's details. EFSL asked Mr L to return forms to verify his identity.

On 9 November Mr L rang EFSL to check that his PSD form had been received, having received confirmation from the postal service that it had been delivered. At this time he had not yet received EFSL's letter of 2 November. The representative explained that the sale had not been carried out because EFSL had not been able to verify Mr L's identity. Mr L was unhappy about the delay in selling the shares, and also that EFSL was communicating with him via post, rather than email.

Mr L's concerns were treated as a complaint, and on 10 November a complaint handler called him. She confirmed that she would email EFSL's letter dated 2 November to Mr L. She also said that having spoken to the share dealing team, it had been agreed that Mr L could email the ID evidence to it, although there was no guarantee that these documents would be accepted. Mr L emailed scanned certified ID to EFSL on 12 November, with the next business day being 13 November. EFSL accepted the ID and confirmed to Mr L on 15 November that the G shares had been sold.

Mr L received £18,101.45 paid into his bank account for the shares. However he complained to EFSL that a reduction in the share price since when he'd sent the PSD form in October meant that he'd received around £1,700 less for the shares. Mr L commented that he would not have suffered this reduction if he'd been able to use EFSL's online share dealing service and put in a sale request on 12 October, when he'd made the decision to sell. He asked to be compensated for this.

EFSL responded that its standard policy is to request that ID documents be posted to it. It said this reduced the chances of fraudulent documents being submitted. However it said that it had accepted Mr L's documents via email on this occasion because they were certified. In terms of the reduction in the share price that had occurred, EFSL said that it was not in control of the time post takes to arrive from outside the UK. For customers outside of the UK, it said it only offered the option of share sales via postal forms. EFSL commented that it had made Mr L aware that he could sell his shares via another bank or stockbroker.

In response Mr L commented that by only offering online share dealing to customers who are UK residents, EFSL was operating a discriminatory process. He said this had caused him a loss due to the reduction in the share price of G between 12 October, when Mr L had made the decision to sell, and the actual sale date on 15 November.

EFSL replied that limiting online transactions to UK residents only was partly due to anti money laundering ('AML') legislation and "*logistical considerations*". But it also mentioned that this prevented any potential conflict or complications occurring with legislation or restrictions in place in overseas territories.

Unhappy with EFSL's stance, Mr L brought a complaint to this service. He said that other UK businesses do offer online share dealing to non-UK residents, and again stated that EFSL's process is discriminatory. In submitting its file, EFSL said that by accepting Mr L's ID documents by email, and agreeing to pay the share proceeds directly into his bank account, it had worked outside its usual process.

Our investigator did not uphold this complaint. His view was that EFSL had made the limitations of its PSD service clear to Mr L. Once the PSD form had been received on 2 November, EFSL attempted to verify Mr L's ID via an external agency, but this failed. The investigator considered that EFSL was not at fault for this. When it had sent a letter to Mr L about this on 2 November rather than emailing him, this was because this share dealing service was postal.

The investigator commented that a PSD service is not as efficient as an online service. But noting EFSL's comments about AML, logistical and possible legislative restrictions relating to providing online dealing to non-UK residents, his view was that its decision not to offer Mr L this online service was not discriminatory. The investigator considered that Mr L had been unfortunate that the failure of the external agency ID verification had coincided with a fall in G's share price. But his view was that EFSL had made it clear that there was potential for delay when using the PSD service to sell holdings.

Mr L did not agree with the investigator's findings. He reiterated his view that EFSL's share dealing process for non-UK residents is discriminatory. Mr L said that he had only discovered that he could email scanned documents to the business once he'd raised a complaint. Prior to that, Mr L said he had been told that he needed to send in documents to EFSL by post. In his view, this delayed the sale by weeks and caused him a financial loss. Mr L said that he should have been told there was a faster way to get required documentation to EFSL, and if he had been, the sale would have been completed in a few days, reducing the risk of price fluctuation.

This complaint was referred for review by an ombudsman.

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.

Within the declaration section of the PSD form that Mr L was asked to complete, it confirmed that in order to sell shares, information was required for AML and ID purposes. It said that checks could delay a sale. There were also warnings in the form that sale proceeds could only be issued by cheque.

The terms of the PSD service were included on the forms for completion to sell shares which were sent to Mr L. Term 7.3 of the PSD stated that to comply with UK AML regulations, EFSL might validate a customer's ID using an external agency. It said that EFSL might also ask to be provided with proof of ID. Again there was a warning that these checks could lead to a delay in carrying out sell instructions, and that EFSL would not be responsible for any resultant loss. And term 7.7 confirmed that any documents EFSL sent relating to the PSD service would be mailed to the customer's address. Overall I consider the information contained on the PSD form made it clear that there could be delays selling the shares due to AML and ID requirements.

Mr L and EFSL had several phone calls before Mr L submitted the completed PSD form requesting for his sale of G shares to be carried out by the postal dealing service. My view is that within those calls, it was made clear to Mr L that if he wished to sell his shares via EFSL, his only option as a non-UK resident was to use the PSD service. EFSL did mention the possibility that Mr L could change his holding to certificated shares and take the certificate to a local broker in the country where he's living, but he confirmed he did not want to do this.

I would agree with Mr L that if he'd been able to use EFSL's online share dealing service, it is likely that the sale process would have been more efficient. However, for non-UK residents EFSL only offered the PSD service as the way to sell shares. Mr L has said that this is discriminatory.

Our service doesn't have the power to make a finding of discrimination – that's something only the Courts can do. However, when investigating cases referred to us, we can make findings on whether a business has treated a customer fairly. To do that, one of the things we consider is whether other customers with similar circumstances would have been treated in a similar way. That's what I've done in Mr L's case, and whilst I can understand why not having access to the online service was a frustration for Mr L, on balance I'm not persuaded EFSL's restrictions meant that it treated him unfairly.

The business has noted AML and potential legislative reasons to explain why it does not offer an online service to non-UK residents, and has also mentioned logistical considerations. Based on the evidence provided, I'm not persuaded that EFSL's decision not to offer the online service to Mr L was unfair. Instead, my view is that the business' actions represent its reasonable assessment of the potential complications that offering this service to overseas' customers might cause.

Mr L has highlighted that once he'd complained to EFSL about the delay selling his G shares, he was told he could email scanned documents. Had he been told this before, Mr L says that rather than sending documents by post, he could have emailed them and sold the shares earlier, at a higher price. EFSL has said that allowing Mr L to email ID documents was outside its usual process – in other words, this was not an option that it would offer as standard to its customers.

The reason Mr L was required to provide certified ID documents was because the external agency ID check had failed. EFSL issued a letter on 2 November to Mr L explaining what documents it required from him in order to carry out the checks it needed to do. When he complained to EFSL about its PSD process on 9 November, Mr L questioned why its letter dated 2 November had not been sent by email. My view is that it was reasonable for EFSL to have sent this by post because, as its terms confirmed, the PSD service operated by sending correspondence by mail.

My understanding is that, had the external agency check been successful, Mr L would not have needed to provide further ID documents. I don't consider there's evidence to indicate that the external agency check failed due to an error on EFSL's part. In terms of EFSL's decision to accept copies of ID documents that Mr L had emailed to it, this seems to have occurred as an exception, as part of EFSL responding to Mr L's complaint. It remained the case that the PSD process was postal, meaning that documents would usually need to be mailed. In those circumstances, I do not consider that it was unreasonable that EFSL had required Mr L to return his completed PSD form to it in the post.

It was unfortunate that the price of G shares fell during the period that Mr L was arranging the sale of his holding. There was the possibility that the price could have risen. That aside, I need to consider whether the way in which EFSL arranged the share sale was unreasonable, and caused Mr L to receive less for his shares than would otherwise have been the case. Overall my view is that EFSL acted reasonably when carrying out Mr L's instructions to sell the shares, bearing in mind that the options it had available were more limited due to Mr L not being UK resident. And as explained already, I'm satisfied that EFSL treated Mr L fairly.

EFSL did explain to Mr L that there were other options available to him if he didn't want to use its PSD service. It also acted fairly by agreeing to pay the sale proceeds directly into Mr L's account, in light of his comments that he would not be able to pay in a cheque. EFSL had explained that share sales could be delayed whilst it sought the items it needed to complete the transaction, in line with the ID and AML obligations upon it. I am sorry to learn of the reduction in the value of the G shares that Mr L experienced whilst attempting to sell them. But my conclusion is that EFSL did not act unreasonably when arranging the share transaction in the way that it did.

My final decision

My final decision is that I do not uphold this complaint, and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 January 2025.

John Swain
Ombudsman