

## **The complaint**

Mr M complains that Barclays Bank UK PLC trading as Barclays Smart Investor (“Barclays”) failed to reinvest some monies he received following a corporate action on shares he held in his investment ISA. And he further complains that Barclays has refused to accept an instruction he provided by letter for the investment of the proceeds of the corporate action.

## **What happened**

Mr M holds savings in an investment ISA provided by Barclays. Since 2017 that ISA has been held on Barclays’ Smart Investor platform.

In May 2022, a mandatory corporate action was announced on one of the shares that Mr M holds in his ISA. The corporate action consolidated the shares and provided a return of capital (“ROC”) payment to shareholders. The ROC payment was received by Mr M’s ISA on 20 May and additionally, on the same date, a regular dividend was paid to investors.

Mr M’s ISA was set up to automatically reinvest any dividend payments that were received. So Barclays used the dividend payment to purchase further shares in the paying company. But Barclays says the ROC payment was not a dividend, so the automatic reinvestment instruction did not apply, and the funds received into Mr M’s ISA remained in cash awaiting his instructions.

In December 2022 Mr M noticed that the ROC payment remained uninvested. He spoke with Barclays by telephone, who explained why the payment remained in cash. Following that call Mr M wrote to Barclays to ask for the ROC payment to be used to purchase additional shares in the relevant company. In early January Barclays wrote to Mr M to tell him that it was unable to accept any dealing instructions by letter. It said he needed to provide any instructions using its telephone service, or online.

Mr M’s complaint has been assessed by one of our investigators. She thought that Barclays had acted in line with its published terms and conditions, both in terms of not reinvesting the ROC payment, and in refusing Mr M’s written investment instructions. So she didn’t think the complaint should be upheld.

Mr M didn’t agree with that assessment. So, as the complaint hasn’t been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

## **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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr M and by Barclays. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Mr M says he has held an investment ISA with Barclays for over 25 years. But, in 2017, Barclays decided to change the way it offered investment ISAs to its customers and introduced what it calls its Smart Investor platform. So it is clear that the product Mr M now holds is different to that he originally took from the Bank. But I am satisfied that Barclays provided Mr M with notice of the changes it was making to the operation of his investment ISA, and that it was entitled to make those changes.

In 2017 Mr M was sent a booklet by Barclays that set out how his new ISA account would operate. And that booklet is supported by a lengthy terms and conditions document. I will reference both these documents when considering this complaint as I think they provide the most relevant sources of information about what should have happened here. When Barclays sent that booklet it told Mr M that if he was unhappy with the changes, it would assist him with the movement of his ISA to an alternative provider. Since Mr M remained invested through the platform I must assume that he accepted the changes that Barclays was making to his ISA product.

Mr M's complaint is in two parts. He has complained about Barclays failing to reinvest the cash he received from the ROC in May 2022. And he also complains about Barclays refusing to allow him to provide investment instructions by letter. I will deal with each part of the complaint separately.

The 2017 booklet provided Mr M with some information about how Barclays would deal with notifications about forthcoming corporate actions. It said;

*Smart Investor will offer a useful alert marker online next to any investments in your portfolio when a corporate action is announced so you can easily identify events which may impact your investments.*

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

My understanding is that Mr M hadn't chosen to go paperless with his communications. And the corporate action that took place was mandatory – it didn't require any response from Mr M in order for it to proceed. So I don't think Barclays did anything wrong when it didn't write to Mr M to make him aware that the mandatory corporate action was taking place, or that it had completed and the ROC payment had been added to his account.

Mr M had a standing instruction in place for the reinvestment of his dividends. On the same day as he received the ROC payment, Mr M also received a dividend from the same company. Barclays correctly reinvested the dividend income in line with Mr M's standing instruction. But the ROC payment is not a dividend. It is a capital payment and so might attract very different taxation treatment. So it would be inappropriate for Barclays to treat it as a dividend and automatically reinvest it. I haven't seen anything in Mr M's agreements with Barclays that suggests payments of this nature should be automatically reinvested. And I think it worth noting that, in my experience, many investors would not want this type of payment to be automatically invested, despite that being the approach they have instructed for dividend payments. So it's important that Barclays holds clear instructions from investors before taking any reinvestment actions on payments of this nature.

So I think Barclays acted correctly in simply adding the cash ROC payment to Mr M's ISA without further investment. His ISA is an execution only account, so this dictates the service that Barclays provides to him. In practice this means Barclays isn't responsible for advising on, or recommending, investment opportunities to Mr M or for taking any on-going responsibility for the investments (including cash) in his ISA.

Instead Barclays just executes the instructions Mr M provides. It gives him access to a platform where he can view his account and what's in it, and sends periodic statements in line with its regulatory obligations. So taking everything into account here, I'm satisfied that Barclays couldn't be fairly expected to reinvest the ROC, and that it didn't need to do anything outside the normal routine statements it sent to notify Mr M of the ROC cash sitting in his account.

That then leads me onto the second half of Mr M's complaint. Once he identified that the ROC payment hadn't been reinvested he wrote to Barclays to provide his investment instructions. Barclays told him, fairly soon afterwards, that it couldn't accept investment instructions sent in by letter. It told Mr M that he would need to provide the instructions either by telephone or using its online services.

The 2017 booklet set out the details of the Smart Investor service that was being introduced. Barclays says that Smart Investor is an online digital investment platform. In the 2017 booklet Barclays generally describes the account as being "online", and when discussing getting in touch Barclays provides details of its website, a phone service, and a newly introduced web chat service. And for completeness, as I said earlier, Barclays acknowledged that its new offering might not be suitable for all its customers, and provided more details about the support it would give to transfer investments to an alternative provider.

The terms and conditions provide a further explanation of how customers can get in touch with Barclays. But I think it important when reading those terms and conditions to remember that they cover a whole range of reasons contact might be made – not just for providing investment instructions.

Mr M has pointed us towards section 5.1 of the terms and conditions. That says;

*"You can contact us using the contact details we give you. Further information is available in Section E."*

And the above referenced Section E simply provides the postal address for Barclays at its head office in London. So Mr M says that is a clear indication that Barclays allows customers to communicate by post (although I note that the address given in Section E was not the address that Mr M used when sending his investment instruction to Barclays).

But later, in section 10.1 Barclays provides more information about how instructions can be provided in relation to any investments. That section says;

*“You can normally give us Instructions in the same ways as you can contact us, all as set out in the Account Literature. We will tell you about any limitations and we may, for example, require you to set up security procedures or take other steps before being able to give us Instructions in certain ways.”*

So here Barclays confirms that it is the account literature that sets out the normal methods of communication for investment instructions. And, as I've explained above, the account literature that was provided to Mr M when he was migrated to the Smart Investor service listed the available communication methods as being by phone, using web chat, or through Barclays' online services. That document provides no suggestion there is an alternative communication method of using the postal service.

So I am satisfied that Barclays is entitled to choose how it wishes to allow customers to provide instructions for any changes to their ISA investments. And from the product literature it doesn't seem to me that Barclays currently offers customers the opportunity to provide those instructions by post. So I am persuaded that Barclays treated Mr M in line with the terms and conditions of the Smart Investor product when it refused his written investment instruction.

So whilst I appreciate this decision will be disappointing for Mr M I don't think Barclays has treated him unfairly, or acted other than in accordance with the relevant terms and conditions for his ISA. I don't think the dividend reinvestment instruction reasonably applied to the proceeds of the corporate action that returned capital to Mr M. And I think Barclays is free to choose the methods Mr M can use to provide his investment instructions. So I don't think this complaint should be upheld.

### **My final decision**

For the reasons given above, I don't uphold the complaint or make any award against Barclays Bank UK PLC trading as Barclays Smart Investor.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 March 2024.

Paul Reilly  
**Ombudsman**