

The complaint

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

Mr M said HSBC are responsible for his investment losses and he thinks it should pay him compensation for this.

Mr M has been represented in his complaint by his father, so from this point onwards I have referred to Mr M as Mr M1 and his father as Mr M2. I have referred to both in my decision.

What happened

Mr M1 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. Mr M1 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.

Mr M1 wanted to sell his rights. Mr M1 was informed by HSBC that he could do so from 30 March 2023 and so Mr M2 contacted HSBC on behalf of Mr M1 on that date to sell them. He said he was unable to. He said HSBC told him Mr M1 didn't have access to the rights yet. Mr M2 said he followed up the following day and got the same answer.

Mr M2 said that whilst he was unable to do anything through HSBC, the value of Mr M1'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 M2 said Mr M1's rights should have been on his account for him to sell. He said HSBC are responsible for this and it should pay for the investment losses he made. He complained on behalf of Mr M1 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 Mr M1's allocation. It said it received the rights on 30 March 2023 and applied them to Mr M1'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.

Mr M1 was not happy with HSBC's response and referred his complaint to our service.

An investigator looked into Mr M1's complaint. He said he could see HSBC had received the rights on 30 March 2023 and that HSBC said these were credited to Mr M1's account on 31 March 2023. He said HSBC confirmed the rights were tradable at some point on this day.

The investigator initially upheld Mr M1's complaint and said he was unable to trade on the day HSBC said he could. He initially concluded HSBC were responsible for a delay and so it should pay Mr M1 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 Mr M1's complaint. He said after considering the new information, he could see that when Mr M2 on Mr M1's behalf, could sell

the shares and was given an opportunity to on 3 April 2023, he didn't. He said Mr M2 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 M2 on behalf of Mr M1 would have sold at the earliest opportunity.

Mr M2 on Mr M1'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 Mr M1 was denied the chance to sell them sooner. Mr M1'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 Mr M1's complaint. I will explain why.

To recap, Mr M1 held Tui shares in his 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. Mr M1 wanted to sell his rights.

Mr M2 said HSBC didn't give Mr M1 the opportunity to sell his rights when he wanted to. Mr M2 said HSBC received Mr M1's rights issue on 30 March 2023, and, on his behalf, he wanted to sell them on this day.

Mr M2 said he contacted HSBC on 30 March 2023 and the following day, and he was told by HSBC that it couldn't sell them yet. Mr M2 said by the time he was able to sell them on Mr M1's behalf, the value of his rights had plummeted, and he was out of pocket.

HSBC has told our service that Mr M1 was able to sell his 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 Mr M1'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 Mr M1'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 Mr M1'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 Mr M1's account. Mr M2 has said he tried to sell them on 31 March 2023 but couldn't. I have seen a log of the calls made by Mr M2 to HSBC on 31 March 2023. It may well have been that when Mr M2 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 Mr M1'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 M2 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 Mr M1's account or whether it had made any errors in doing this. This is because on balance, I can't safely conclude Mr M2, on Mr M1's behalf, would have sold them earlier than he did anyway. I say this because, Mr M2 did call on 3 April 2023, and he was told he was able to sell Mr M1'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 Mr M1's representative, to sell them the following day on 4 April 2023.

I consider, on balance, that Mr M2 was deciding as to when to sell Mr M1'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 Mr M1 had been given the opportunity to sell his rights earlier. I can't fairly conclude that Mr M2 on behalf of Mr M1 would have sold Mr M1's rights anyway if he had been given the opportunity to sooner. I think on balance, Mr M2 would have decided when to sell Mr M1'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 Mr M1'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 Mr M1's rights on his account earlier than it did, I don't think I can fairly say Mr M2 on behalf of Mr M1 would have sold them sooner than he did, for the reason I have given.

I appreciate that my decision will be disappointing for Mr M1 and Mr M2 as his 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 Mr M1's complaint.

My final decision

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

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

Mark Richardson
Ombudsman