

The complaint

Mr R is represented. His complaint was part of a collective complaint about a number of investment related accounts held with Henderson Rowe Ltd ('HR'). The collective complaint was then split and separated.

This decision is only about his accounts and about the following – he says HR failed to execute an email instruction on 11 March 2022 to liquidate his Individual Savings Account ('ISA') and his General Investment Account ('GIA') prior to an impending transfer; that it had done nothing as of 14 March 2022; and that, on 15 March 2022, it eventually took action.

HR says there was nothing to liquidate in the ISA. It concedes responsibility for the delay (between 11 and 15 March) in liquidating the GIA. It has calculated financial loss and has offered redress, but Mr R and his representative disagree with the calculation and redress amount.

What happened

One of our investigators looked into the complaint and agreed with HR's approach towards its compensation analysis for Mr R's GIA.

Mr R's representative disagreed with this conclusion. He questioned the price point (at 11.30am on 11 March) used by HR in its calculations and disputed the prices it used in considering financial loss in the GIA. He said they were non-market prices and that relevant market-based pricing shows a higher financial loss.

In support of this he presented his calculations of financial loss based on closing mid prices on 11 March. He acknowledged that, in terms of redress, a range of price time points on 11 March and price types (the day's low, closing or average prices, for example) could be used – which he said the Ombudsman can consider in determining the complaint – but he argues that it is unacceptable for HR to use prices that did not exist in the market on 11 March at 11.30am.

The investigator was not persuaded to change her view, and she repeated that HR had used the approach towards its redress consideration that we would expect it to use. For this reason, she did not consider that it should have to do anything more than it has already done in its redress calculation and offer.

The matter was referred to 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.

HR accepts that it delayed the liquidation of Mr R's GIA, that it ought to have executed that on 11 March when it was instructed to do so, and that it did not act until 15 March. Available evidence shows that the ISA was already liquidated, so the delay did not affect it. As such,

liability in the complaint has already been resolved and the matter of redress is limited to the GIA.

HR has calculated and offered redress for the delayed GIA liquidation on the following basis:

- It says the instruction email of 10.37am on 11 March would have been executed by 11.30am on that date.
- It calculated the total proceeds that would have been generated based on the bid prices at that time, and compared that to the total proceeds generated on 15 March.
- It found that the GIA's liquidation had been disadvantaged by a price difference between the delay.
- It offered Mr R the value of the disadvantage/difference in compensation.

As stated above, Mr R and his representative challenge the price point of 11.30am (on 11 March) and the actual prices used in HR's calculations. They have invited us to review this and their alternative calculation of redress. A number of price points and price types could be considered for the calculation. However, we must not lose sight of the specific purpose that redress should serve in this case. Redress is aimed at calculating whether (or not) the liquidation that should have happened on 11 March would have achieved higher proceeds than what was achieved on 15 March. As the investigator said, this purpose is reflected in the approach HR used in its calculations.

The exercise cannot be precise, because no-one can determine exactly when the liquidation on 11 March would have happened, or the associated sale price. Mr R's representative's submissions favour the use of day-closing prices and he questions why HR selected 11.30am. I understand his concerns. He refers to price charts showing this particular time as being unfavourable for prices. However, I have not seen enough evidence to say this was/is HR's motivation for selecting the time. Instead, I find its explanation – about 11.30am being when (just under an hour after the instruction) the sales would probably have been executed – to be plausible. The same explanation refers to time being used to input and authorise the associated trades, and then time for execution by its custodian. These could have been done within an hour.

Investment transactions are inherently time sensitive and firms are commonly expected to provide timely order (or instruction) execution. The instruction at 10.37am did not specify liquidation at closing, or at any particular later time, so it is fair to conclude that HR ought to have applied such timely execution. With this in mind, I am not persuaded to prefer a day-closing price/execution point (many hours after the instruction) over a price/execution point within an hour after the instruction.

On balance and for the above reasons, I agree with the price/execution point of 11.30am on 11 March.

The sale that should have happened on 11 March would have been subjected to the relevant market bid price(s) (in the applicable bid/offer price spread(s)). HR says the bid prices are exactly what it used in its calculations. It confirmed that its calculations were based on relevant published bid prices from 'FactSet' (the online financial data resource).

With regards to Mr R's representative's argument about HR using non-market prices, it does not appear that the price chart evidence he cites, in support, shows the relevant bid/offer price spreads (or *two-way quotes*) as of 11.30am on 11 March. They appear to show single chart pricing. This might explain the differences that he refers to. Given that two-way quotes usually exists around the associated single chart price, this could be the reason why he has been unable to match the chart pricing with the bid pricing used by HR.

Based on HR's evidence for its calculations, I share the investigator's view that it has calculated Mr R's financial loss fairly and offered him the resulting fair compensation. However, I understand Mr R's and his representative's concern about accuracy in the calculation (and of the compensation offer). I consider that their concern would probably be addressed by full disclosure by HR of the source information/data it used in calculating the financial loss and compensation offer. I recommend that HR provides this to them without delay.

My decision is to not uphold the complaint because, on balance, I consider that HR has fairly calculated Mr R's financial loss and because it is my understanding that HR continues to stand by its compensation offer to him (based on the calculation). If this was not the case, I would be upholding the complaint and ordering HR to calculate the actual total proceeds generated from the GIA sale on 15 March 2022, to compare that with the total proceeds the sale would have achieved at the accurate market sale/bid prices at 11.30am on 11 March 2022 and to pay Mr R any total financial loss arising from the calculation.

Based on available evidence, my understanding is that HR has done all the above (up to the point of its compensation offer) and that it will be providing full disclosure to Mr R of the source information/data it has used for its calculation, so for these reasons I agree with the investigator that it should not have to do anything more.

My final decision

For the reasons given above, I do not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 October 2023.

Roy Kuku
Ombudsman