

The complaint

Mr B complains that Financial Administration Services Limited trading as Fidelity International ('Fidelity') failed to notify him and advise about trading alternatives when he was unable to trade on Fidelity's online platform.

To put things right, Mr B wants Fidelity to pay redress to put him into the financial position he would've been in if he'd been able to trade as he said he had hoped to on 12 September 2022.

What happened

Mr B holds a dealing account on Fidelity's investment platform which enables him to buy and sell holdings via its online platform or by phone or by post.

12 September 2022 - following a rights issue by a company Mr B held shares in, he logged into his online account. Mr B was aware this was the first day of the rights issue and he expected to see his rights listed on his account. Although he could see and trade all his other securities, he couldn't see the rights showing in his account.

15 September 2022 - Mr B sent a secure message to Fidelity. He said that when he'd logged into his account on 12 September his rights weren't available to him to sell and, as the price had since dropped by more than a third, he was looking to Fidelity for compensation.

21 September 2022 – Fidelity made contact with Mr B and apologised for a 'technical error' which had meant he'd been unable to place a deal online in respect of his rights. It confirmed that he was now able to sell his tradeable rights online – and he still had until close of business the next day to do so.

22 September 2022 – Mr B sold the rights, at a price substantially lower than the peak price he'd seen on 12 September. He told Fidelity he expected it to pay him the difference.

There was an exchange of correspondence and, in summary, Fidelity said:

- its investing platform allowed clients to invest in a wide variety of assets but there could be exceptional times when that wasn't possible
- when Mr B was unable to place the transaction online, he could have contacted Fidelity by phone and it would have been able to place a manual request, ensuring he received the price at the time he wanted to sell
- as Mr B hadn't given Fidelity any instruction to deal on 12 September, it wasn't able to offer any price correction and didn't agree it owed him compensation.

Mr B brought his complaint to this service for an independent review. One of our investigators considered the complaint. In brief summary, she supported Fidelity's position and didn't agree that Fidelity was liable for the negative impact on Mr B of the delay in selling his rights.

Mr B didn't accept the investigators findings and asked for an ombudsman to reach a final decision on his complaint. He mainly says:

- the investigator's view '*...is fundamentally flawed.*'
- It was impossible for him to attempt a trade when the securities were not allocated to his account.
- The online platform was working fine – but Fidelity had not allocated these rights to be able to be traded on his account.
- Fidelity knew of the error but failed to notify Mr B or any of its clients.
- Fidelity is not being held accountable for its mistakes which is severely undermining Mr B's confidence in the financial services sector and this whole process.
- Fidelity's online platform is designed for speed and convenience and Mr B had wanted to use it to quickly sell his holdings. He didn't have time during the work day to ring Fidelity and hold on the phone for 20-30 minutes – which had been his previous experience.

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've carried out an independent review and having done so, I've reached the same conclusion as our investigator and I'm not going to uphold this complaint. I'll explain my approach and how I've reached my decision.

Mr B has written in some detail explaining why he feels Fidelity should pay him compensation and I appreciate how strongly he feels about this complaint. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. Whilst I've summarised things in my own words, I've carefully read and considered everything he's said. It's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. This means I won't necessarily mention everything Mr B has brought to my attention as the purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by both parties and reach a fair and reasonable decision based on the facts of the case.

I will comment on everything that makes a difference to the outcome of the complaint.

My findings are made on a balance of probabilities, in other words, what is more likely than not, based on the evidence that has been provided by the parties. In simple terms, to uphold this complaint, I would need to find that Fidelity was responsible for an error or that it acted unfairly or unreasonably in some way and that this caused Mr B financial loss.

It seems to me that the crux of Mr B's complaint is that he could not sell his tradeable rights online when he logged in to Fidelity's platform on 12 September 2022.

Fidelity has explained that it experienced a technical issue which meant clients were unable to see their tradeable rights online on 12 September.

Fidelity's terms of business, which Mr B agreed to in order to be able to trade on its platform, explain that Fidelity makes no warranty or representation that its service can be accessed at all times and on occasions it may be temporarily unavailable or restricted for administrative or other reasons. So I think this went some way towards managing Mr B's reasonable expectations. Nonetheless, I would expect Fidelity always to act in a fair and reasonable manner, so I've thought carefully about what happened.

A key part of Mr B's complaint is that Fidelity should have contacted its clients to alert them to this technical issue and provided advice about workaround solutions. Had it done so, Mr B

says he would have sold his rights on 12 September. But despite the fact that Mr B was prevented from seeing or being able to manage his rights online in the way he expected, Mr B could nevertheless still have placed selling instructions that same day. Leaving aside the possibility of using the post which wasn't a viable option in these circumstances, I still think he had a couple of valid alternatives open to him.

Mr B could have phoned Fidelity. The terms and conditions of his account already allowed him to place trades by phone. So I don't think there was any particular onus on Fidelity to 'notify' clients they could do this.

Mr B was already aware that he could contact Fidelity by phone because he mentioned having done this previously.

I do appreciate why it was inconvenient for Mr B to phone Fidelity on 12 September rather than operate his account by his usual preferred online method. But he could also have made contact with Fidelity via secure message. Mr B was familiar with the secure messaging system. Even if he hadn't been able to make enough time to try phoning, he could've sent a quick secure message enquiring about the problem and had he done so, Fidelity could've explained how he could take things forward if he wanted to sell that day.

I haven't been provided with any information showing that Mr B tried unsuccessfully to call Fidelity on 12 September or that he sent a secure message that day – his first contact about this issue seems to have been his secure message sent to Fidelity some three days later. By then, he'd left it too late for Fidelity to be able to sell his rights at the price he'd seen on 12 September.

And I agree with Fidelity that it wasn't clear from that message on 15 September that Mr B wanted to sell. So I can't fairly or reasonably find that Fidelity should have taken steps sooner to execute sale of the rights. Within a week or so it had written to Mr B confirming that the technical issue was fixed and he would be able to sell the tradeable rights online. Fidelity told Mr B that if he experienced any issue he could call on a freephone number it provided or reply back to its secure message and said it could place a manual deal for him. It also confirmed that the deadline to sell the rights was extended to the end of the next day. In the event, the following day Mr B went online and arranged the sale of his rights.

All in all, I can't fairly conclude that Fidelity was responsible for Mr B not being able to sell his rights on 12 September when:

- he could have contacted Fidelity on 12 September by phone or secure message and discussed the problem he encountered when he found his online trading intentions were frustrated
- had he done so, he would've found out Fidelity could've placed the trade that day
- by including relevant information in its terms of business, Fidelity had already taken reasonable steps to make Mr B aware that he wasn't limited to online trading only – there were other options he could have followed up which would have avoided him missing out on trading on 12 September
- Fidelity actioned the sale of the rights promptly and in accordance with Mr B's online instructions on 22 September 2022.

This means that I can't fairly or reasonably find that Fidelity is responsible for Mr B losing out on the price he hoped to achieve by selling his rights on 12 September as he could still have executed the trade anytime, irrespective of the fact he couldn't sell his tradeable rights online.

So I am not upholding Mr B's complaint and it follows that I cannot award the compensation he seeks. I'm sorry to disappoint Mr B. I am aware that he takes a different view to me and he strongly believes that Fidelity's admitted error is enough of a reason for it to compensate him. But I hope that the way I've set things out helps explain why I have come to a different conclusion. And although this isn't the outcome he hoped for, Mr B will at least feel that this complaint has been fully considered.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 31 July 2023.

Susan Webb
Ombudsman