

Missing credit of a subsequent payment on dividends for a custodian client

Topic: **Stock exchange and custody accounts** Case number: **2019/13**

The client complained to the bank that the bank had not credited him with back payments of dividends for a certain share position which he held in his custody account and had made unjustified tax deductions on those which had been credited to him. His detailed complaint was answered by the bank with a long delay. It claimed that it had passed on to the client all subsequent payments to which he had been entitled. For the rest, it had merely forwarded the subsequent payment orders from its custodian bank and had no further obligations. The client complained to the bank again and submitted documents to the bank which substantiated his claims to the subsequent payments he had claimed and his opinion on how these should be treated for tax purposes. The Bank did not return to the customer's complaint until after a reminder and more than six months later, but essentially stuck to its initial response. The customer then submitted the case to the Ombudsman. His justified claims were able to be enforced in the ombudsman proceedings.

The customer's complaint was well founded and documented. Together with other minority shareholders, he had fought for the claims for back payments in court and was therefore well informed about them and how they had to be implemented. The relevant information was also publicly available. It was therefore incomprehensible to him that the bank decided that he had no claim to the back payments. As he had already had to complain to the bank on various occasions in connection with custody services, he accused the bank of quality defects.

The customer limited his complaint to the ombudsman to the claims for back payments and did not submit the tax problem to him anymore, as he could solve it in another way. The Ombudsman was unable to understand the Bank's statements to the customer. He contacted the bank and asked it to handle the customer's complaint with the necessary care and to examine its attitude. The Ombudsman also had to remind the Bank several times before he received a reply with a long delay. However, the response was positive. The bank had now contacted its custodian bank, which in turn contacted the company, which was obliged to make the additional payments. It turned out that, erroneously, these had not yet been made. As it was foreseeable that the payments would be delayed a little longer, the bank advanced them to the client, apologised to him and granted him a small compensation for the considerable effort he had made with the justified complaint. The case was thus resolved to his satisfaction.

The case shows that the complexity of custody services should not be underestimated. While the usual processes in this pronounced mass business can be highly standardised and hardly give rise to any complaints, quality problems sometimes arise in the resolution of specific problems, e.g. in connection with the implementation of more complex so-called "corporate actions". The answers that the bank provided to the client in the present case gave the impression that there was a lack of know-how on how to tackle such problems. The Bank even took the view that it did not have to perform the limited administrative actions with this client that were customary and in line with market standards in the custody business. One of the reasons the bank gave for this was that the customer was a pure

“execution-only” client. According to the findings of the Ombudsman, the bank’s custody account regulations did not contain any such restrictions. This would also be unusual. The extent to which the aforementioned limited administrative actions must be carried out in individual cases is sometimes disputed. In the Ombudsman’s view, however, they should in principle also be performed for execution-only clients.