

## The complaint

Mr Y complains that Trading 212 UK Limited trading as Trading 212 (Trading 212) recovered approximately £3,842.97 from his Contract for Differences (CFD) account following identification of a manifest error and continues to request a further £2,517.11.

## What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my decision.

## 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'd firstly like to re-assure Mr Y that I've had sight of all communications in this complaint, including all post view communications with the Investigator. I may not comment on each point individually, but I have considered all the information submitted. Having done so, I'm not upholding this complaint. I'll explain why.

### *Manifest error*

Trading 212's CFD client agreement with Mr Y defines a manifest error as: *'an obvious error in the quotes of the Financial Instruments which substantially deviates from the prevailing market price and which has occurred as a result of a system or technical error'*.

The definition is clear in the terms and conditions of the client agreement which Mr Y agreed to. And Trading 212 identified 122 of Mr Y's positions which it says were affected by this manifest error. It believes clause 6.8 of the terms of the client agreement allows it to cancel any order where a manifest error is found. This clause states:

*'If Manifest error in a specific quote is found, We shall be entitled at our discretion to cancel the Order and the relevant consequences – in terms of either a profit or a loss for You – immediately upon detection of such Manifest error. We shall not be liable for any damages or consequential loss incurred by You as a result of such cancellation, except for damages resulting directly from our gross negligence or wilful misconduct.'*

I appreciate Mr Y feels a manifest error hasn't occurred in this instance, but the evidence provided shows there was incorrect pricing which allowed for customers to potentially use third party sources and trade with a 60 second lead on the correct pricing. This is quite a substantial lead which I'm satisfied fits the definition of a manifest error and is reasonably obvious upon observation.

Trading 212 confirmed it has voided almost 9000 positions across its platform due to this manifest error and has done so regardless of whether they were in profit or loss. It has

provided specific evidence of individual positions Mr Y took out which it voided due to the manifest error, which in total amounted to a £6,360.08 profit.

Mr Y has explained that none of his trades were made to take advantage of a manifest error – and I appreciate his comments about this point. However, the terms surrounding manifest error do not state that the trades must purposefully exploit such errors – it only concerns whether a manifest error has occurred.

It's not my role to decide whether Mr Y has made use of latency trading like Trading 212 has also suggested. Instead my role is to decide if the evidence available shows a manifest error has occurred, and if it's likely Mr Y has benefitted from an unfair advantage as a result. From the evidence already discussed I'm satisfied that this is the case and that Trading 212 has acted reasonably and in line with what its terms allow it to do. Ultimately the manifest error reduced risk and could be benefitted from – intentionally or otherwise.

Trading 212 has to date reclaimed £3,842.97 from Mr Y's account. The terms allow Trading 212 the discretion to reclaim any funds which are the subject of a manifest error and so I don't think it's been unreasonable in this instance. I'm also satisfied it was also not required to give Mr Y any advanced notice of this action.

Where there is an allegation of wrongdoing against a client, Trading 212 are also entitled to cease to offer its services. Clause 20.2 of the client agreement allow Trading 212 to *'unilaterally cancel and deem void any Order made in violation of clause 20.1, to close your Account and to terminate the Agreement'*.

Trading 212 felt that Mr Y was benefiting from latency trading and made a business decision to terminate his positions and close his account. I'm satisfied that considering the contended trades made by Mr Y during the period, and the advantage of reduced risk from said trades, Trading 212 have applied its terms fairly. It plans to close his account once all funds have been recovered and has notified Mr Y of such. It is entitled to make this decision and it's not within our remit to tell a business who it should conduct business with.

Mr Y believes Trading 212 has been unreasonable in the way it applied its discretion. He says it has caused him losses and prevented him from meeting his financial commitments. I'm sorry to hear that Mr Y has had difficulty meeting those commitments, but it's important to acknowledge that due to the manifest error his account didn't accurately reflect his true holdings. Trading 212 were within its rights to prevent him from withdrawing the profits from the account as they wouldn't have existed were it not for the manifest error.

Mr Y also feels that Trading 212 have been negligent in the time it took to spot the manifest error and notify him, but I'm satisfied that as soon as Trading 212 became aware of the manifest error it was quick to take action as per the terms of its agreement. I agree it would've been preferable for both sides if Trading 212 had spotted the error sooner. But whilst it does *'review its third-party external references from day to day'* considering the amount of data it receives daily it's understandable these errors won't always be picked up instantly. Trading 212 took some time to spot the error, but when it did, I'm satisfied it acted within a reasonable period as per its terms of agreement and notified Mr Y shortly after.

Mr Y is also unhappy that Trading 212 is continuing to request the remaining profits made from these trades (£2,517.11). I'm satisfied that Trading 212 is entitled to apply its discretion outlined in the terms of the agreement to reclaim funds because of the manifest error. I would however remind Trading 212 of its obligations to treat customers fairly and ensure any repayment considers Mr Y's individual circumstances and financial situation.

**My final decision**

My final decision is that this complaint should not be upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 2 June 2023.

Paul Clarke  
**Ombudsman**