

The complaint

Mr A complains that Trading 212 UK Limited (“Trading 212”) failed in its obligations to protect him against what he considers having been fraudulent investments.

What happened

Mr A opened his account with Trading 212 in July 2020. Mr A went on to make investments in stocks and shares, as well as contract for differences (“CFDs”).

In March 2023, Mr A complained to Trading 212 as he felt it had failed to adhere to its regulatory obligations to protect him against the financial losses he incurred. He said his losses were caused by the fraudulent activity of multiple companies he had invested in through Trading 212.

Trading 212 considered Mr A’s complaint but didn’t uphold it. In summary, it said:

- Trading 212 is an execution-only broker, with no control over the stocks a client chooses to invest, and its duty of care doesn’t extend to the verifying of the stocks and investment instruments offered on the various exchanges.
- The various exchanges have their own due diligence requirements and process which must be satisfied before a stock or instrument can be offered for trading.
- Mr A was provided with various risk warnings within its welcome documents when he opened his account.
- Trading 212 is responsible for safeguarding clients from financial fraud or financial harm in respect of fraudulent or unauthorised access to client’s accounts. It doesn’t relate to the poor performance of an investment, misinformation provided by an investee company or fraudulent activity of that company.

Mr A remained unhappy and so he referred his complaint to this service for an independent review. Mr A highlighted one company in particular which he had invested, which I will refer to as Company O. He said he was influenced to invest in Company O by videos from a content creator who was endorsing the investment in question. Mr A said that, following the financial decline of the stock, the content creator has expunged all their content which he believes strongly suggests fraudulent activity occurred.

One of our investigators looked into the complaint but didn’t uphold it. In summary, they said:

- The regulator, the Financial Conduct Authority (“the FCA”) does not expect execution-only brokers to carry out due diligence on the companies Mr A invested in.
- The exchanges they were traded on set some rules on what is expected of the companies, but even these are limited.
- Trading 212 was not expected to assess whether the investments were appropriate for Mr A and instead it just needed make him aware of the general risks of his investments.
- Having reviewed the details of Mr A’s trading history, the investigator could see that Mr A was trading in shares for Company O for some time and they hadn’t seen anything to suggest it had intentions to defraud or scam its investors. They said

Company O is a pharmaceutical company that was expected to produce COVID vaccines, so naturally its share prices increased. Sadly, it appears that it wasn't granted the license for the vaccine which adversely affected the share prices.

Mr A didn't accept the investigator's findings. In summary, he said:

- Trading 212 has an obligation to act in a fair, honest, and professional manner and it could be argued that not flagging or warning about potential 'pump and dump' schemes is contrary to these principles.
- Whilst Trading 212 can rely on the rules and regulations adhered to by the exchanges that list companies, this seems to overlook the fact that not all exchanges are equal in their enforcement of rules and regulations.
- He was still concerned that the volatility and rapid devaluation of Company O's shares were indicative of potential market manipulation.

As no agreement could be reached, the complaint has been passed to me to decide.

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 appreciate Mr A feels strongly that Trading 212 ought to have done more to protect him against the losses he has suffered. However, having reviewed everything, I'm not persuaded that Trading 212 has failed in its regulatory obligations towards Mr A. I'll explain why.

Trading 212 provides Mr A with an execution-only service in which it executes or carries out the transactions he gives it. It's important to stress that Mr A receives nor expects to receive any advice from Trading 212, and it doesn't consider the suitability of any of Mr A's investment decisions. This is all explained in Trading 212's investor terms:

"4.1. We shall provide our Share Dealing Services on an "execution-only" basis, meaning all investment decisions are taken solely by you, and therefore you and you alone determine your Investment strategy and choices, are responsible for all Orders, and are responsible for regularly monitoring your Investments. We shall never advise you on your Investments, your transactions, or your share trading decisions. We will not offer you any advice or recommendations regarding our Share Dealing Services, and no information provided by us should be interpreted as such."

It would appear that Mr A's decision to invest in Company O was influenced by the videos of a content creator who was in no way connected with Trading 212. Whilst it's unfortunate that Mr A invested in this company, which he says was a 'pump and dump' scheme, it wouldn't be fair or reasonable to hold Trading 212 responsible for this as it gave no investment advice.

I understand Mr A believes that, although no advice was given to him by Trading 212, it ought to have done more to protect him and has references several regulatory obligations he feels Trading 212 failed to adhere to. I can confirm that I've considered these in full and I don't agree that there has been any failing.

Mr A has suggested that, by allowing him to invest in these companies, Trading 212 has not acted in his best interests or provided him with the necessary duty of care. The companies Mr A has referred to, including Company O, were all trading on American stock exchanges at the time and so I wouldn't expect Trading 212 to conduct due diligence on these. These were established markets which have certain requirements that companies must meet in

order to become listed. I've not been provided with any evidence to suggest Trading 212 was or ought to have been aware of any reason not to allow Mr A to invest in these companies. Rather, Mr A gave Trading 212 clear instructions to invest in these companies, which, under its execution-only service, it was required to action. Trading 212 didn't need to consider the risks involved in the investment and its share dealing services terms of business made it clear to Mr A that these risks were his to bare:

“3.3. Dealing in Shares and Fractions entails a high level of investment risk. Orders you place for Transactions are at your own risk and expense.”

I appreciate Mr A believes fraudulent activity has been conducted within the companies and whilst I haven't been provided with any evidence to demonstrate this, ultimately it isn't my role to determine whether an investee company has conducted such activities. Rather, I can only consider the actions of Trading 212 in this complaint, and I'm not persuaded Trading 212 ought to have been alerted to anything which meant they shouldn't have allowed Mr A to invest in these companies.

So taking into account all of the above, whilst I appreciate losing his invested funds has caused Mr A considerable worry, I'm satisfied these losses were not caused by Trading 212 failing to adhere to its regulatory obligations.

My final decision

My final decision is that I do not uphold this complaint.

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

Ben Waites
Ombudsman