

The complaint

Mr C complains that Hargreaves Lansdown Asset Management Limited ('Hargreaves Lansdown') sold his shares without prior notice or permission. He says this caused him a financial loss for which he wants compensation.

What happened

Mr C was a customer of Hargreaves Lansdown. Using his Hargreaves Lansdown account he bought some shares in the USA ('US shares').

The terms and conditions of Hargreaves Lansdown (section A14) say that to hold US shares using a Hargreaves Lansdown account clients must complete a form provided by the US Internal Revenue Service. The form is called a 'W-8BEN'. The terms and conditions say if the client doesn't provide the form by Hargreaves Lansdown's deadline then Hargreaves Lansdown has the right to sell any US shares held by the client.

The W-8BEN is valid for three years. Hargreaves Lansdown says when a W-8BEN is registered with Hargreaves Lansdown it tells the client it will send a reminder before the W-8BEN expires.

Screenshots from Hargreaves Lansdown show that in October, November and December 2022 Hargreaves Lansdown sent Mr C secure messages saying he had to provide a W-8BEN before the end of the year or his US shares would be sold. The messages also said the W-8BEN would be valid for three years. A screenshot from Hargreaves Lansdown indicates that Mr C didn't open these secure messages.

Screenshots from Hargreaves Lansdown also indicate that on the same dates it sent these three secure messages it also emailed Mr C saying each time that he had a secure message which he needed to read. A further screenshot from Hargreaves Lansdown indicates Mr C didn't open these secure messages.

On 1 February 2023 Hargreaves Lansdown sold Mr C's US shares because it didn't have a current W-8BEN for him.

A screenshot from Hargreaves Lansdown shows that Hargreaves Lansdown emailed Mr C that day about a contract note for the sale of the shares. The screenshot shows Hargreaves Lansdown also emailed Mr C that day to say he had a secure message. A further screenshot from Hargreaves Lansdown indicates Mr C opened the secure message sent on 1 February 2023. And Mr C has told us he received the email sent that day about the contract note.

On 1 February 2023 Mr C complained to Hargreaves Lansdown. He said Hargreaves Lansdown hadn't made him aware that he needed to submit a form in order to keep his US shares and Hargreaves Lansdown shouldn't have sold the shares.

Hargreaves Lansdown said it didn't uphold Mr C's complaint. In summary its reasons were as follows:

- It had notified Mr C in October, November and December 2022 that his W-8BEN needed to be renewed.
- The notifications were by secure message and internal audit records showed that on each occasion Hargreaves Lansdown sent Mr C an email telling him he had a secure message.
- It had used Mr C's nominated email address. And email was Mr C's preferred method of communication.
- Hargreaves Lansdown's terms and conditions said Mr C was responsible for ensuring he continued to be eligible to hold US shares.

Hargreaves Lansdown told Mr C how he could complete a W-8BEN and re-purchase the US shares if he wanted to.

Mr C referred his complaint to this service. He said he hadn't received any emails saying he had a secure message from Hargreaves Lansdown. And he said Hargreaves Lansdown should've contacted him by phone or letter when it saw that he hadn't read the secure messages it sent.

One of our Investigators looked into Mr C's complaint. She said Hargreaves Lansdown had notified Mr C about the need for the W-8BEN multiple time across several months. She said it had acted in line with its terms and conditions and Mr C's preferred communication method which was email.

Mr C said he didn't receive the emails from Hargreaves Lansdown and the Investigator should've sought proof from his email provider that he did receive them.

The Investigator sent Mr C a screenshot from Hargreaves Lansdown showing it had sent him an email in October 2022 to say he had a secure message. She said she'd seen screenshots for the November and December 2022 emails too. And she said the emails had been sent to Mr C's correct email address. She said her role was to determine whether Hargreaves Lansdown had treated Mr C fairly. And she didn't need to check with Mr C's internet provider to see whether Mr C had received the messages to know that Hargreaves Lansdown had met its obligations to Mr C on this occasion by sending the emails.

Because no agreement could be reached, the complaint was passed to me to review afresh and make a 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.

Having done so, I'm not upholding the complaint. I'll explain why.

The purpose of this decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point response to every submission made by the parties to the complaint. And so, while I've considered all the submissions by both parties, I've focussed here on the points I believe to be key to my decision on what's fair and reasonable in the circumstances.

Firstly, I do understand Mr C's frustration at the sale of his shares. And I accept that he feels strongly that Hargreaves Lansdown didn't do enough to make him aware that he needed to

take action to stop his US shares from being sold. But the evidence Hargreaves Lansdown has provided, particularly the screen shots from its systems, leads me to conclude that Hargreaves Lansdown took fair and reasonable steps to make Mr C aware that he needed to complete the W-8BEN to avoid having his shares sold.

It's clear Mr C didn't open the secure messages Hargreaves Lansdown sent in October, November and December 2022. He hasn't denied they were sent to him. He's said he wasn't made aware of them. And he feels it's unreasonable to expect him to check for secure messages on a regular basis. Given that Hargreaves Lansdown had recorded that email was Mr C's preferred method of contact it's understandable that Mr C expected to be notified of the messages by email.

What is in dispute is whether Hargreaves Lansdown sent emails to Mr C in October, November and December 2022, telling him that he had secure messages to read. The screenshots Hargreaves Lansdown provided set out the emails it says it sent to Mr C. Included are emails dated October, November and December 2022, and also the email Hargreaves Lansdown sent in February 2023. All of those emails are marked as having been sent to the same email address which is the address Mr C has used in his communications with this service. Mr C said he didn't receive the 2022 emails, but he did receive the 2023 email. Given that other emails to the same email address were received by Mr C and given that Hargreaves Lansdown's audit records show all emails as having been sent in the same, with details of the times sent and subject lines used, I have to conclude that it's more likely than not that Hargreaves Lansdown did send the emails that are included in its screenshots.

It's possible Mr C didn't receive or didn't see the emails that Hargreaves Lansdown sent. But I'm satisfied that Hargreaves Lansdown did enough by sending them. If for any reason outside its control the emails weren't received by Mr C, it wouldn't be fair to hold Hargreaves Lansdown accountable for that. For this reason I don't think it would be useful to seek records from Mr C's email provider.

Mr C has said Hargreaves Lansdown should've contacted him by a different method after he didn't open the secure messages it had sent. I can understand why Mr C would've liked Hargreaves Lansdown to do that. But I don't think it's reasonable to expect Hargreaves Lansdown to monitor whether individual clients are accessing their messages and to contact them by other means if they're not. Mr C had nominated email as his preferred contact method. So I think it was reasonable for Hargreaves Lansdown to rely on email as an effective way to communicate with Mr C. And Hargreaves Lansdown sent its message to Mr C three times.

Taking everything into account, I'm satisfied on balance that Hargreaves Lansdown took fair and reasonable steps to communicate to Mr C the need for him to complete a W-8BEN. And I don't think it was unfair or unreasonable for Hargreaves Lansdown to have proceeded in February 2023 on the basis that Mr C had been informed of the need for the W-8BEN, and that Hargreaves Lansdown had the right to sell the US shares. So I won't be asking Hargreaves Lansdown to do anything.

My final decision

For the reasons I've set out above, my final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 February 2024.

Lucinda Puls
Ombudsman