

The complaint

Mr R complains about some American Depositary Receipts ('ADR') he has in Russian businesses. He says it was announced in April 2022 that these could be converted to ordinary shares and then traded on the Moscow stock exchange ('MOEX'). But eToro (UK) Ltd ('eToro') has not made this conversion. He says he has lost the dividends and possibly all of the investment value. And he has been caused a lot of 'back and forth' and anxiety.

What happened

Mr R has a number of ADRs. ADRs are shares of businesses that are offered in markets that are overseas. In this case, these are shares in Russian businesses, and the ADR's are tradable in non-Russian stock markets. Mr R says the ADR's give him the right to convert to ordinary shares that can be traded on MOEX. He holds the ADR's on eToro's dealing platform.

Mr R has tried to convert the ADR's to ordinary shares but has not been able to. He says that eToro should have converted them. There was a time limit to convert the ADR's that has now passed and it's not clear to Mr R if he will be able to do this in the future. It's also not clear if his investments will have any value or worth. He's complained to eToro about this.

eToro has considered Mr R's complaint and has not upheld it. It's said in summary from the correspondence that I have seen:

- Due to the international sanctions on Russian stocks, it did not receive any dividends or payments for these stocks. It cannot claim these dividends due to the sanctions.
- Whilst it has looked into converting the ADR's this would involve counterparties and other third-parties such as brokers. Again, due to the current sanctions on Russian investments, it's not possible to make these complex agreements at the present time.
- The Russian central bank has also prohibited the transfers of securities of Russian issuers into foreign persons. And it has also prohibited Russian businesses from having their shares traded outside Russia by ADR arrangements.

eToro thinks it has acted reasonably and has not breached its terms and conditions when it told Mr R that it couldn't convert his ADR's into ordinary shares.

Mr R doesn't agree with eToro. He says that other trading platforms have been able to convert ADR's in some cases and if eToro were to follow the correct procedures it would be able to do this. And he would also be able to receive any dividends he is due. He said eToro had already converted ADR's in another similar shareholding that he has.

Mr R brought his complaint to the Financial Ombudsman Service. Our Investigator didn't uphold Mr R's complaint. She said that:

- eToro hasn't been able to convert the ADR's Mr R complains about. This is because the Russian political situation has had a profound impact on what it can do. And the businesses they relate to are currently sanctioned.
- It was reasonable for eToro to minimise the risk of breaching international sanctions.

- It wasn't acting unreasonably when it told Mr R that it couldn't assist with converting his ADR's in the way he wanted.
- eToro hadn't breached the terms and conditions of its dealing Service or acted unfairly.
- The Financial Ombudsman wouldn't ordinarily change a business's legitimate commercial decisions about what it can and can't do. And we shouldn't do this here.
- Mr R wouldn't be able to trade in any of the shares linked to the ADR's as it is currently against Russian law to do this as he is not a Russian citizen. So, he hasn't suffered a loss, as he couldn't realise the value of the investments in any event.

Mr R says that there is a procedure in place to convert the ADR's and other brokers have done this legally. He thinks that eToro should have done more, such as transferring his shares to other platforms or third parties who may have solutions to the problems he is facing. He thinks it should refund the initial capital and the dividends he would have received, plus some interest for late payment.

As no agreement has been reached the complaint has been passed to me to issue my final 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.

eToro has said it is unable to convert Mr R's ADR's due to the risk of breaching international sanctions. And that it is unable to arrange the assistance from other businesses, such as counterparties and overseas brokers, that it would need to facilitate these transactions for the same reasons. I've thought about whether it is acting fairly and reasonably when it says this.

Mr R has a number of ADR's that are essentially overseas investments in Russian stocks. The trading of these ADR's is subject to sanctions from the international community. And Russian law now prevents these products from being traded. So, trading these investments can breach both international and Russian law.

So, I think it is reasonable for eToro to think that trading and converting these ADR's isn't ordinarily allowed. And I think it is right for eToro to believe there is a significant risk in facilitating the trading in these stocks. I don't think it's unreasonable that it doesn't want to take this risk.

eToro has also said that it would need third parties to facilitate the conversion and it has been unable to secure these. Again, this seems likely, and reasonable, given the political situation that surrounds these investments.

As our Investigator said it is usually right that a business can choose what services and products it wants to offer. And eToro seems to have done so here for compelling reasons. This is also, in some ways, a commercial decision which I don't think it would be right for me to challenge or interfere with.

I appreciate that there is a lack of certainty here, and the situation has changed significantly over time. And not all investments in Russian businesses have faced the same sanctions. But there has been very little clarity from regulators and governments about this, and little information on what problems a business could face if it were to make the trades Mr R wants it to do on his behalf.

Given all of this, I don't think it's unfair that eToro has said that it cannot convert the ADR's that Mr R wants it to.

And if Mr R were to be able to convert these ADR's to ordinary shares then there would be significant obstacles to owning and trading in them, as Mr R isn't a Russian citizen. This looks unlikely to change in the near future.

I can't say what will happen going forward but I don't agree that it's right to say that his investments would be 'safe' if converted. Given the problems that surround non-Russians owning and dealing in Russian stocks, I'm not persuaded this would be the case.

And it is right to say that Mr R hasn't suffered a loss yet. He still has the ADR's. But if they had been converted to shares it's currently not legal for him to sell them. And there is no way to determine if he will be able to in the future, given the circumstances that surround his investments.

I do note that Mr R was able to convert some of his similar ADR's (or similar arrangements). But this has been a very fast moving and complicated situation. And I can't say that whatever has been reasonable to do in the past, either by eToro, or another businesses, makes it reasonable to say that eToro should be able to do what Mr R want's now.

I know this will not be the answer that Mr R is looking for, but I don't think his complaint should be upheld.

My final decision

For the reasons set out above, I don't uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 March 2024.

Andy Burlinson
Ombudsman