

## **The complaint**

Mr W complains that eToro (UK) Ltd trading as eToro limited unfairly limited his account. He'd like the ability to use its trading services again and compensation for the losses and upset he was caused.

## **What happened**

In 2023 the Financial Conduct Authority (FCA) introduced new rules that required firms to assess whether a client had the "necessary knowledge to understand the risks involved in relation to a restricted mass market investment" – this included cryptoassets (COBS10.2.9). Mr W had a trading account with eToro where he traded stocks, unleveraged Contracts for Differences (CFDs) and cryptoassets. In January 2024, he was required to pass an appropriateness assessment in order to continue trading cryptoassets.

Shortly before taking the test he spoke to someone from eToro. He explained his personal circumstances, including that he had a disability and didn't have the "mental capacity" to pass the test. He thought he would definitely fail it. eToro explained that this test was mandated by the FCA and it was a requirement it had to comply with. Following this conversation, eToro limited Mr W's account – this meant that he was able to close his existing trades and withdraw money, but he was unable to open any new positions or deposit additional funds. Mr W asked for the limitations to be removed and had a number of conversations with eToro about this. On 17 January 2024 eToro confirmed that given Mr W's particular circumstances, it was following its policy on vulnerable customers which allowed it to limit and then close an account when it considered this was in a consumer's best interests. It explained that given his "declared circumstances, you may be more likely to experience detrimental outcomes which – in the event they materialise – could be greater than if such characteristics/circumstances were not present". It therefore said that in line with term 26.4(a) of the terms and conditions of the account, it was taking the decision to close the account. However, due to the "significant unrealised losses" on his open positions, it would allow Mr W an indefinite period to manage these.

Mr W complained. He said that he had been very happy trading with eToro and this wasn't fair. He said eToro wasn't qualified to assess him medically and he had assets and money and was successful in his chosen field. He said he had done nothing wrong and felt very disillusioned with the outcome. He said he had now taken the test and it was very easy – he wanted to pre-warn eToro. He now felt he was being punished for disclosing his mental disability, not because of the failed test. There was significant further correspondence in which Mr W asked for the restrictions on his account to be removed or for the opportunity to appeal the decision. eToro didn't change its view and issued a final response referring Mr W to this service – this is what Mr W did.

One of our investigators looked into Mr W's complaint. She said that the FCA had produced guidance on cryptoasset trading and this required firms to test a consumer's knowledge and understanding of the risks of trading cryptoassets. So she didn't think it was unfair that it had required him to undertake this test. She also considered the information that Mr W had disclosed to eToro. She thought that it was fair and reasonable for eToro to consider Mr W's circumstances when deciding whether the services it offered were in his best interests. The

investigator thought that as a result of Mr W's particular circumstances, its decision to restrict his account was fair and reasonable. She also considered the way eToro managed the closure and thought that it was fair, since it allowed Mr W indefinite time to manage his open positions before closing his account.

Mr W didn't agree with the investigator and asked for an ombudsman's decision. In summary, he said that he thought he was treated unfairly by eToro. He said he'd been very successful trading with eToro and had turned \$100 into \$11,698 and said that it wasn't right that just because of his disability he couldn't carry on trading. He said the amount he wanted to trade was small and he was ultimately just asking for a chance to trade, learn and educate himself – he could see no harm in that. He said just because he told eToro that he couldn't read that fast and had some memory issues he was penalised and this was unfair.

As agreement couldn't be reached, the case was 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.

Having done so, I agree with the investigator and for broadly the same reasons.

I should firstly say that I completely sympathise with Mr W's situation and his complaint. I understand that he feels his openness with eToro has caused him to lose a service that he enjoyed and, by his own account, was very good at. I understand why he feels he hasn't been treated fairly and why he thinks that his disability has caused eToro to limit his account with a view to eventually closing it.

However, although I understand all that, my role is to act impartially and look at the situation from both sides. eToro is aware that trading cryptoassets exposes consumers to a high risk of capital loss, including significant short-term volatility as well as the possibility of a total lack of liquidity. They can be obscure instruments, disproportionately affected by current affairs and other unpredictable news events.

The FCA required firms to assess the knowledge of their customers in order to ensure that only consumers who had an understanding of the risks would be allowed to trade these types of assets. Therefore, in terms of the assessment itself, I'm satisfied it was fair and reasonable and in line with the relevant rules, for eToro to have required Mr W to undertake this assessment at the time.

Alongside this, Mr W then had what I can only describe as a frank and open conversation with eToro, in which he openly discussed his personal circumstances. I understand why he now feels penalised.

But eToro is right that the FCA requires it to assess what it knows about its customers and decide whether the services it provides are right for them. And sometimes, this assessment will mean that it considers the services it provides for its customers aren't right for them, even when they disagree – as in this case. This is particularly the case because the FCA also requires firms to ensure that they keep in mind their "target market" for their services.

I appreciate Mr W's comments that he has made substantial profits trading – but that isn't something eToro could assume would continue into the future. It needed to assess the type of trading it offered to Mr W, the risks, and Mr W's ability to navigate those risks without being exposed to an increased risk of harm caused by his vulnerabilities.

In doing so, it should also have assessed the types of services Mr W was likely to use – for example, Mr W was trading mostly stocks, not leveraged CFDs and cryptoassets. So it could've limited Mr W's ability to trade cryptoassets and still allowed him to trade stocks. But my role doesn't extend to telling eToro how to conduct its business – my role is to decide whether eToro's actions are fair and reasonable in all the circumstances.

I'm not persuaded by Mr W's comments that he has been discriminated against – I don't think that's what eToro's assessment amounts to. In my view, eToro took into account what it knew about Mr W, including his financial circumstances, his trading, as well as the personal circumstances he described, and considered that the services it offered (which involved some very high-risk products) were not in his best interests. When taking a step back and looking at this case in the round, I'm persuaded this was a fair and reasonable thing for eToro to do.

As part of that assessment, I've had to take into account eToro's terms and conditions, because they form the contractual framework of Mr W's relationship with eToro. The terms allow eToro to stop providing its services as long as it provides "appropriate notice" (terms 26.4 and 26.5). So eToro was entitled to close Mr W's account. This means that even if I disagreed with eToro's reasons for limiting Mr W's account, I wouldn't be asking it to reopen his account or remove the block – because its terms clearly allowed it to do this without necessarily giving reason.

The key question is whether it did so fairly and gave Mr W an appropriate period to manage his open positions. And I think that its decision to allow Mr W an indefinite period in which to close his open positions or, essentially, wait until they become profitable was fair and reasonable. It means that Mr W cannot increase the risk on the account, but can manage it going forward.

For all these reasons, I'm sorry to disappoint Mr W but I'm not persuaded eToro has done anything wrong – nor that I can ask it to put things right or otherwise reopen his account. I'm satisfied it fairly and reasonably assessed his circumstances and decided that the service it offered weren't right for him. This was in line with relevant rules published by the FCA.

### **My final decision**

My final decision is that I don't uphold Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 7 April 2025.

Alessandro Pulzone  
**Ombudsman**