

## The complaint

Mr T complains that Trading 212 UK Limited (T212) withheld profits from trades he placed in a particular Exchange Traded Fund (ETF). He said these were legitimate profits and it was unfair for it to have withheld them.

## What happened

Mr T opened his account with T212 in 2020, and in November 2021 had bought shares in an instrument called GraniteShares 3x Long Moderna Daily ETF. Between July and August 2022 Mr T realised profits of over £80,000 from his trades. On 19 August 2022 T212 wrote to Mr T and said:

“After a thorough review of your account, we have determined that you have exploited a technical issue on the trading platform with our price feed in the instrument 3LMO – 3x Long Moderna GraniteShares.

Trading 212 is of the opinion that the differentials in the stock prices should have been apparent in that they have varied considerably from the underlying market price at the time.”

It then quoted certain terms and concluded that:

“Due to this pricing anomaly, trades executed in this instrument are considered invalid. Consequently we have closed your existing position in this instrument at the prevailing market price as this, and the previous positions in this instrument, were opened at invalid prices. Additionally, we have removed 84,077.74 GBP from your account which includes all profits attributed to this instrument, minus any fees.”

Mr T complained about this decision, but T212 considered it had acted in accordance with the terms and conditions of the account, so he referred his complaint to this service. One of our investigators looked into Mr T’s concerns, and considered it shouldn’t be upheld. In short, he felt T212 had acted consistently with the terms and he was satisfied that there was a manifest error in the price of the instrument which Mr T would likely have been aware of when placing his trades. Mr T provided some initial comments in response:

- Mr T said he spoke to T212 via their webchat and reached out to it “on a weekly basis from Feb-June 2022”. He said that at the time they were losing money, including in March 2022 when he notified it that the price was not the same as other platforms. He said T212 only took action in the summer of 2022 when he began making profits. This was unfair.
- He claimed T212 was aware of the issues with the instrument from one year prior but took no action. He had asked for all of his chat history, but only received the history from March 2022. Mr T provided a copy of this to the investigator.

The investigator made some further enquiries to T212:

- In response to the investigator’s query about Mr T raising issues with the instrument

in March 2022, T212 said:

- It was correct that Mr T had reached out to it about whether the pricing on its chart of the instrument was correct.
- However its charts “only served an indicative purpose”. They were adjusted in accordance with the market’s conditions and the quotes that it received, and the information presented upon them was not guaranteed but only an “indication”.
- T212 provided an execution only service and didn’t provide any advice or recommendations. Furthermore, it was “the clients’ personal responsibility to familiarize themselves with the market and the instruments they’re investing in”.
- The fact that Mr T reached out to it “requesting whether there is an existing issue with the pricing of the instrument” confirmed that he had acknowledged the price which the instrument was quoted was not correct. It said that after he had understood “the abnormal values of execution” he continued to set limit orders and entered trades.
- It said Mr T’s trading behaviour was “abusive” on the basis that he had identified the error but continued to trade on the erroneous prices. It said that once T212 identified the error and the reason behind it, it “had” to take action on Mr T’s account.
- In response to the investigator questions about when the issue began appearing on its platform, T212 said:
  - It was “difficult to pinpoint an exact time since we started receiving the wrong price from our feed provider – Bloomberg” and so it did not want to provide the investigator with “inconclusive information”.
  - The issue “was noticed on the 18th of August 2022” and following a further investigation on 19 August, it “deducted the funds from the client’s account”. It said “this was noticed by monitoring of our daily P&L reports”.
- It provided a list of trades with the relevant market prices and claimed these showed the “manifest error”. For example trades opened at the price of 0.0600 when the relevant sell price was 0.0562 or others opened at 0.0500 when the relevant buy price was 0.055.

The investigator considered this additional information and concluded T212 had acted fairly and reasonably.

I issued a first provisional decision upholding Mr T’s complaint. In summary, I concluded that Mr T hadn’t been treated fairly and reasonably.

I concluded that T212 had earlier opportunities to identify the pricing error in the GraniteShares 3x Long Moderna Daily ETF and failed to do so – only taking action when Mr T had made significant profits.

I thought that there was insufficient evidence to conclude that Mr T knew or should’ve known about the error in July or August 2022, and that therefore simply returning the amounts he

had invested in the instrument wasn't fair – I thought there was a financial loss that T212 ought to put right. I therefore recommended that T212 rework Mr T's trades using the "correct" prices, and if Mr T would've made a profit, award him that as well as £500 for the trouble and upset the matter had caused him.

Neither Mr T nor T212 agreed with my provisional decision – and substantial comments were provided by both parties.

### **Mr T's comments**

Mr T provided a number of comments. In summary, he said that T212 had other stocks that had similar pricing issues and T212 had told him, in those instances, that the issue wasn't a pricing error but a "deliberate configuration". He said he had seen other forums from other investors who had similar issues.

He agreed that T212 ought to have rectified the issue in March when he first contacted it about the error and he said that the "failure to address this discrepancy in a timely manner has undoubtedly exacerbated the situation and exacerbated our concerns regarding the integrity of the trading platform". He also said that he thought it was "disconcerting" that T212 hadn't issued a public statement about this and he considered this was because T212 had targeted him on the basis that they had made a profit.

He said that he considered fair compensation ought to be the profits which had accrued as well as potential missed opportunities for further investment.

In terms of the compensation I awarded, he considered £500 wasn't sufficient given the "financial loss" he had incurred was over £84,000. He said this amount did not "adequately address the distress and hardship we have endured as a result of this unfortunate incident".

He explained the impact the matter had on him and the decisions they had made in light of what they thought were the profits they were going to realise.

He said that the "technical issue of decimal rounding" also gave him less favourable prices at times. Furthermore, he said that if this was "truly an error" then other customers would also have been affected. This means that its decision not to publicly announce or proactively reimburse all affected customers meant that it was profiting unfairly from this error and penalising him.

### **T212's comments**

T212 provided detailed submissions. In short, it explained that Mr T wasn't trading a CFD, as I'd said, but had bought shares in this particular ETF. It said the price Mr T was trading was not its price, but one that was coming directly from the market. It said the error therefore originated directly from the liquidity provider but could not say how or when it began. It provided evidence of this. It also said that Mr T was aware of the error and took advantage of it in July and August, contrary to its terms – so it was right and in line with the terms to have voided his profits. It provided evidence of the volume of trading compared to previous periods, as well as the number of profitable trades and the size of the profit generated.

It offered to increase its offer to £1,000 for the distress and inconvenience caused but did not agree that it ought to pay the profits as Mr T wanted. It also said that Mr T had placed limit orders which would not have triggered had the correct price been streamed, so it wasn't able to reprice Mr T's trades as I had recommended in my provisional decision – which in any event it didn't consider would be fair and reasonable.

As a result of these comments, I issued a second provisional decision in July 2024. In it I said:

***Was there an error in the prices of GraniteShares 3x Long Moderna Daily ETF which Mr T traded***

*Mr T has made a number of submissions in this regard, but I'm satisfied the evidence T212 has provided is conclusive evidence that the prices were erroneous. The examples it has given show prices ranging from 10% to 12% or more away from the underlying share price of the instrument. I've also seen evidence of the specific trades Mr T placed, showing how on occasion both the bid and ask prices were the same – which is a clear demonstration that there was an error.*

*Furthermore, in its most recent submissions, it has provided screenshots from a Bloomberg chat which confirm that the instrument was being erroneously priced – although there was no confirmation for when the issue started.*

*I'm satisfied the evidence available shows quite clearly that the prices Mr T's trades were closed at in July and August 2022 were incorrect and I'm not persuaded it would be fair and reasonable for T212 to honour those trades in the circumstances.*

*Mr T has made detailed submissions about the impact the reversal of the profits has made on him. But whilst I accept this was undoubtedly distressing, if Mr T had lost money due to this error I'd be recommending T212 compensate him for his losses – so it follows that I must conclude he cannot keep the profits.*

*Furthermore, some of the distress was in part due to something I think Mr T likely already knew wasn't quite right with the instrument.*

*I note T212's evidence that Mr T would've been aware of the issues is based on:*

- The extremely high volume of trading in July and August 2022 compared to previous months;*
- The ratio of profitable trades versus non-profitable trades;*
- The size of the profits;*
- The fact that Mr T was clearly monitoring the market and would therefore have seen for himself that GraniteShares 3x Long Moderna Daily ETF price on Trading 212's platform was not tracking the underlying stock at that moment in time;*
- The fact that in some instances both bid and ask prices were identical, which would be clear evidence of an error in pricing.*

*Mr T has made detailed comments questioning why T212 hasn't made broader announcements about the error, for example on its website – saying that this might indicate it has profited from the error in other circumstances. I make no finding about this. I'm only concerned with Mr T's complaint – and what broader actions T212 may or may not have to take as a result of this issue are for the regulator, the FCA, to consider if necessary.*

*Mr T has said that "it is essential that an independent review by the ombudsman clearly defines the alleged pricing error and identified the specific point at which this error occurred", but that isn't my role and that's not the purpose of this decision. My role is to consider whether T212 acted fairly and reasonably in the circumstances – and this includes whether it*

*was fair and reasonable for it, based on the evidence it had available, to conclude that Mr T's profits were generated as a result of a pricing error on the instrument he was trading. For the reasons I've given above and given the substantial new evidence I've been provided with since issuing my provisional decision, I'm satisfied it was.*

*I remain of the view that the issue of whether Mr T knowingly exploited the pricing error is less clear-cut, but its relevance given the instrument he was trading, is now more limited.*

*Even if Mr T was unaware of the error, T212 was not generating the price of the instrument he was trading – so it wouldn't be fair and reasonable to ask it to reprice the instrument it was never responsible for pricing in the first place. Furthermore, I accept that in the circumstances, given the evidence it had available, it wasn't unreasonable for it to conclude that Mr T had identified an error in GraniteShares 3x Long Moderna Daily ETF's pricing such that he knew he had a better than normal chance of generating significant profits. My role isn't to determine whether Mr T did or didn't knowingly trade on the erroneous price, but to consider whether T212's conclusion that he did was fair and reasonable. The evidence it has provided I think justifies its conclusions in that regard.*

### **Putting things right for Mr T**

*That said, I remain of the view that Mr T has been caused a financial loss here. Whilst T212 wasn't responsible for the pricing error, nor indeed the price of the instrument itself, it was responsible for ensuring that its customers received the right prices on its platform – as well as providing best execution, which it clearly couldn't here. Crucially, this means that it needed to have systems and safeguards in place to make sure that where errors such as this occurred, it identified them early and took remedial action as soon as possible.*

*As I said in my earlier provisional decision, it was ultimately T212's responsibility to provide a service that was fit for purpose and free from errors. And whilst the occasional technical issue, quickly rectified, might be expected in the normal course of trading – it appears that this was a fundamental flaw in the price that T212 was offering which had been ongoing for many months.*

*In my original provisional decision, I considered that T212 could simply give Mr T the profit he would've made had the error in pricing not occurred – but I acknowledge and accept its submissions, in response to my provisional decision, that this would neither be possible nor fair and reasonable in this case.*

*However, regardless of Mr T's actions in July and August 2022, the absence of any proper assessment of how such an error occurred and why it wasn't identified sooner means that it isn't possible for T212 to explain when it began and for how long the matter had been ongoing. It has said it identified the issue in July and August due to the size of Mr T's profits at the time, but it's clear that the profitability of the error for Mr T would've been relative to whatever price the instrument was actually trading at in the market.*

*I also don't think T212 has placed enough weight on Mr T reaching out to it to query the price it was displaying for the instrument. I agree that Mr T wasn't pointing out the specific pricing error – but it wasn't for him to be aware of it. He was, however, pointing out the price he was seeing (which shows it was already being priced at only 2 decimal points) and I think T212 had an opportunity to then to identify that there was an error with this instrument. I say this because whilst the instrument may not be as liquid as other instruments, and therefore its prices may only update occasionally when it is traded, this still wouldn't explain why it was priced to 2 decimal points on T212's platform and not 4 as it should've been. Mr T's contact in March 2022 was an opportunity that T212 missed to identify the error and immediately return Mr T's investment to him.*

*In my view, given these circumstances, Mr T's financial loss can't be quantified or put right by simply refunding all the money he had invested in the instrument. I think that ignores the fact that but for the error on T212's platform, Mr T would've likely invested in something else – and used his money in some other way.*

*T212 has misunderstood my comment about receiving a reward for a risk – I wasn't implying that for every risk there's automatically a reward. Instead what I'm saying is that investment risk is only worthwhile in the event that there is the potential for a reward. In Mr T's case, he genuinely took the risk of investing in GraniteShares 3x Long Moderna Daily ETF, but due to the pricing error on T212's platform, there was no possibility of any reward for the risk he thought he was taking.*

*What all this means for me is that I think there ought to be some recognition that Mr T has lost out on the potential for an investment return. This is why originally I had intended on awarding only what Mr T would've made had the error in GraniteShares 3x Long Moderna Daily ETF's pricing not occurred. As I've said above, I accept this isn't possible.*

*It also isn't possible for me to say what else Mr T would've done with his money. There's no benchmark that would allow me to estimate whether or not Mr T would've made a return on the money he invested in GraniteShares 3x Long Moderna Daily ETF if he had invested it in something else.*

*In my view the fairest way to put matters right for Mr T is to award what this service normally awards in circumstances of being deprived of money, which Mr T effectively was – he was invested in an instrument that by virtue of its incorrect pricing would never generate a return for him, but whilst he was invested in it, he could do nothing else with that money. And this situation lasted for an inordinately long amount of time. As I explained to T212, an error of this kind is not usually protracted over such a long period of time. So I'm currently minded to award Mr T 8% per year simple interest on the amount or amounts he invested in the GraniteShares 3x Long Moderna Daily ETF – starting with his first investment which I understand was in November 2021, until the money was returned to him.*

*Given the circumstances I also agree with T212's offer of £1,000 for the distress and inconvenience the matter has caused him. I acknowledge Mr T considers the impact to him means he ought to be entitled to more money for the distress and inconvenience, but I'm satisfied an award of £1,000 recognises the impact on him as well as the length of time the error had been occurring.*

T212 agreed with my second provisional decision and provided a calculation of the compensation due to Mr T.

### **Mr T's comments**

Mr T did not agree with my second provisional decision. In summary he said:

- There was clear bias in the handling of the complaint and I had appeared to favour T212. He said his "repeated concerns" had been largely overlooked.
- As a retail investor, Mr T lacked the resources and expertise that T212 had with regards to access to legal, financial and technical professionals. He said that even though he provided numerous examples as to why this incident shouldn't be classed as a pricing error, I had favoured the explanations provided by T212's "professional team". This "imbalance undermines the fairness that should be central to the Ombudsman's role in resolving disputes".

- He was at a distinct disadvantage in this dispute and I had placed “undue weight” on T212’s explanations whilst “neglecting” Mr T’s “reasonable concerns and objections”. He said he had pinpointed “several issues that remain inadequately addressed, raising significant questions about the fairness of this process”. I had accepted the narrative presented by T212, even though no-one had been able to precisely pinpoint the timing or nature of the alleged pricing error. He said that this lack of clarity “should not serve as the foundation for penalizing a retail investor” like himself “particularly when the burden of proof” lay with T212 to demonstrate that an error occurred.
- A significant flaw in the provisional decision was that I had failed to require T212 to “clearly define when [the error] occurred, what caused it and how it affected trading on the platform”. Further he said that without “precise details of the supposed error, it is unreasonable to classify it as such, let alone to retroactively penalize” Mr T for profiting from it. He said that if neither the ombudsman nor T212 could pinpoint the timing of the error nor “provide a clear explanation of its nature”, then how could Mr T be expected to have been aware of it.
- T212 had benefited from the error and therefore had a duty to notify all affected investors and issue refunds to those who lost money during this period.
- He trusted the platform was operating as it should when he was trading with T212 and that his trades “were being executed in good faith based on the prices presented to him”. He wasn’t equipped with technical knowledge or insider information to assess whether the platform was functioning correctly, and he relied on T212 to manage this properly. If there was a pricing issue, it was T212’s responsibility to rectify it promptly. He said that consumer laws in other areas ought to apply here, and that in retail, where there was pricing error, the seller must rectify it transparently and the consumer is entitled to a remedy. The same ought to happen here.
- T212 had earlier opportunities to identify the pricing error but didn’t do so – it only took action when Mr T made profits. This wasn’t fair and called into question T212’s commitment to treating investors fairly.
- My provisional decision failed to provide a comprehensive analysis of the facts, and was biased and unfair.

Mr T then also provided detailed comments on the way to put things right. He said simply reimbursing the initial investment wasn’t fair because:

- Mr T had other investments and was carrying out other trading activity which would’ve been affected had he been reimbursed from the start. He “may have reinvested that capital into other instruments, which could have yield further profits or even losses”. Further, some “profits could have been rolled over into new positions, while other amounts might have been used for entirely different trades in unrelated instruments”. It was therefore “impossible to neatly isolate the funds derived from the allegedly erroneous instrument and simply return them as if they existed in isolation”.
- He said it was impossible to accurately determine how much of the capital Mr T used for subsequent trades came directly from his initial investment or from profits that resulted from his trades in the allegedly erroneous instrument.
- He said that T212 wouldn’t be able to determine how much of Mr T’s “current portfolio was funded by capital that was purely generated by the disputed instrument”

and so reimbursing the initial investment “ignores the realities of investment strategies and is fundamentally flawed”.

- This approach ignored the fact that Mr T’s broader trading performance was influenced by the movement of capital between instruments and so a fair resolution must take into account the totality of Mr T’s investment activity.

Mr T said that the provisional decision needed to be reconsidered and the way of putting things right was flawed because it ignored the fact that Mr T was entitled to a fair return on his overall investment activities. Mr T therefore claimed that “a more comprehensive solution must be sought – one that acknowledges the fluid nature of investments” and provides Mr T “with fair compensation for the entirety of his trading activities on the platform”.

### **Further submissions from Mr T**

Before issuing this final decision, I shared with Mr T the calculations that T212 provided in line with my provisional decision. He provided some additional submissions in response. In summary:

- He provided a table that he said showed how the rounding of the prices affected the percentage change in pricing as the price decreased, “making it clear that both T212 and Mr T traded fairly within the established framework of price differences and rounding variations”. He said this showed that the impact of the rounding of the prices was symmetrical.
- He repeated his concern that the rounding system worked both ways, which meant that on occasion Mr T benefited and on occasion T212 benefited.
- This table showed that price movements were symmetrical. Mr T repeated the fact that T212 had other opportunities to identify the error which it didn’t take, and that when Mr T was unable to trade due to the supposed illiquidity of the instrument, he faced losing his entire investment.
- In relation to the compensation offer, Mr T considered that it was “grossly inadequate” and “fails to account for the scale of the disruption and hardship” that he had experienced.
- Mr T said that the funds were central to Mr T’s plans to move abroad and relocate and the “unjust” removal of the funds meant that they were unable to purchase a property and left him homeless and without jobs for over a year. Mr T said that this was “direct result of relying on the funds that were unjustly taken from us”.
- He considered the £1,000 compensation was “wholly inadequate when measured against the immense financial and emotional burden” he had endured. He said that he was left in a “state of instability and uncertainty” and this had a “devastating impact” on his life, financially and emotionally.
- He suggested a different method of compensation which he said reflected the extent of the damages caused, including:
  - The difference in the property’s value that he was intending to purchase but could not due to the revocation of the profits;
  - Compensation for the cost of temporary accommodation as well as the

emotional strain of living in limbo and the impact on his well-being;

- The loss of income due to leaving his job in anticipation of relocating abroad.
- The mental health support and therapy he has needed due to the impact the matter has had on him.
- Taking all the above into account, he estimated he was entitled to £90,000 compensation which he said “directly reflects the significant losses and suffering” he experienced.
- The 8% interest did not reflect “the opportunity cost, risk or effort” that Mr T endured while actively managing his funds. He said that savings accounts were offering 6% with no risk and in 2023, the S&P500 returned 25%. Given that Mr T invested in a high-risk environment and so the lost opportunities “would have had to earn far higher returns”. He suggested a more reasonable rate of interests would be around the 20 or 25% mark. D
- There were other instruments which appeared to show similar pricing discrepancies and he provided a list of those. He said that if I accepted in this case there had been a pricing error, then he would want to request reimbursement on those instruments too.

### **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.

Mr T has provided detailed comments in response to my provisional decision. I can confirm that whilst I've only summarised them above, I've taken them fully into account and I have considered them very carefully. Having done so, I've not been persuaded to change my findings in my second provisional decision, and so I confirm those findings here as final. I deal with his later submissions specifically about the compensation in the section on putting things right.

Mr T has made a number of comments about what he perceives as bias and the imbalance between him and T212. But this service is informal in nature and doesn't operate like a court of law. So T212's resources in being able to respond to this service's information requests are neither relevant nor determinative in this case. All T212 has done is demonstrate that a pricing error occurred and that it was fair and reasonable for it to conclude that Mr T's profits could be cancelled under the relevant terms of the account.

Mr T has said that he has provided numerous examples about why this incident shouldn't be classed as a pricing error, but I'm not persuaded by the examples he has provided. The evidence I've seen, and which I referred to in my provisional decision, is persuasive that the prices T212 was receiving were not the prices at which the instrument was trading at. In my view this is key and determinative in this case.

As I said in my provisional decision, T212 provided a sample of trades that showed prices ranging from 10% to 12% or more away from the underlying share price of the instrument.

I've also seen evidence of the specific trades Mr T placed, showing how on occasion both the bid and ask prices were the same – which is a clear demonstration that there was an error. It also provided screenshots from a Bloomberg chat which confirm that the instrument was being erroneously priced – although there was no confirmation for when the issue

started.

So I'm satisfied that it was fair and reasonable for T212 to conclude there was a pricing error, and invoke the relevant terms in its terms and conditions.

Mr T says that there remain issues that I haven't addressed. I acknowledge that it remains unclear when the pricing error started and why it occurred. But my role is to decide the matter based on what is fair and reasonable in the circumstances – and for the reasons I've given, I remain of the view that awarding Mr T profits based on trading that was carried out on incorrect prices would not be fair and reasonable. I'm not persuaded that the root cause of the error nor how long it had been going on for make a difference to this conclusion. And I would make the same finding if Mr T had sustained losses and was looking for T212 to reimburse him. On this point, I note that in Mr T's latest submissions he has provided a list of instruments where he says he's experienced the same pricing issue as in this case. I can make no finding about those instruments. If Mr T believes that there have been pricing discrepancies in other instruments, then he'll need to make a complaint to T212 about those and refer that complaint to the service should it not be resolved.

Mr T has made detailed comments about why he believes it's important to get to the bottom of the pricing issue, and about T212's wider responsibility to its clients. That is not a matter for the service – it is a matter for the regulator and Mr T is welcome to approach the regulator to raise his concerns about this incident.

However, in terms of what is fair and reasonable, it is in my view quite clear that the prices T212 was quoting on its website for this particular instrument were not the market prices. As such, in the particular circumstances of this case, it would not be fair and reasonable to let Mr T keep the profits he made when trading on these incorrect prices, whether or not he was fully aware of the issues.

Mr T has also made detailed comments about the trust he placed in T212's platform and the impact this had on him – including its failure to rectify it promptly. But on these issues I am in agreement. As I said in my provisional decision, I'm satisfied T212 did have opportunities to identify the issue and either rectify it or halt trading in the instrument. My award, which I discuss below, acknowledges this. I agree that Mr T is entitled to a remedy and that merely a refund of his deposits in the instrument was not sufficient.

In terms of putting things right, Mr T's comments have focused on the fact that he believes his entire portfolio ought to be compensated due to this error. I'm not persuaded by the comments he has made in that regard. Whilst I agree in principle that there would likely have been an impact from his trading as I've explained, I don't consider it is possible to quantify or reconstruct his portfolio as if he had never traded in this particular instrument.

Instead, I've awarded 8% per year simple interest on his deposits in the instrument – this is what this service normally awards in cases where a consumer is deprived of their money and it isn't possible to determine what impact not having that money had. In my view, this fairly and reasonably gives Mr T some measure of compensation for the period that he was invested in an instrument that wasn't being properly priced.

Mr T disagrees with this method because he says it is "impossible to accurately determine how much" of the capital he used for subsequent trades came directly from his initial investment or from profits that resulted from his trades in other instruments. I'm not persuaded by this argument.

I say this because the key issue here is establishing how much Mr T invested in 3LMO – 3x Long Moderna GraniteShares and ensuring the money invested is returned to him. This is

clearly possible. If some of the money Mr T invested came from profits from other trades, which he would otherwise not have invested in 3LMO – 3x Long Moderna GraniteShares, then this is compensated by the application of 8% per year simple that I've outlined above. The application of this level of interest broadly covers a situation where that profit might have been invested elsewhere and generated a profit or indeed a loss.

I'm not persuaded Mr T's comments show that my method for putting things is "fundamentally flawed". In fact in my view, the fact that Mr T has highlighted the difficulties in quantifying or establishing what impact this matter had on the rest of his trading portfolio demonstrates that this approach is fair and reasonable – it means that not only is Mr T's investment in 3LMO – 3x Long Moderna GraniteShares refunded to him, he is also given a rate of interest thereby guaranteeing a return on this money, something that he wouldn't have had if he had been trading other instruments because there would have been no guarantee he'd make a return.

Furthermore, I've also acknowledged that this matter has caused Mr T a degree of upset – particularly given how long it had been going on for. It is for this reason that I also awarded £1,000 for the distress and inconvenience this matter has caused him.

Taking all this into account, whilst I fully accept Mr T's strength of feeling on the matter, I'm satisfied that nothing he has raised changes my findings in my second provisional decision – and so I confirm them here as final.

### **Putting things right**

As I said in my second provisional decision, I'm of the view that Mr T has been caused a financial loss here. Whilst T212 wasn't responsible for the pricing error, nor indeed the price of the instrument itself, it was responsible for ensuring that its customers received the right prices on its platform – as well as providing best execution, which it clearly couldn't here. Crucially, this means that it needed to have systems and safeguards in place to make sure that where errors such as this occurred, it identified them early and took remedial action as soon as possible.

It was ultimately T212's responsibility to provide a service that was fit for purpose and free from errors. And whilst the occasional technical issue, quickly rectified, might be expected in the normal course of trading – it appears that this was a fundamental flaw in the price that T212 was offering which had been ongoing for many months.

Regardless of Mr T's actions in July and August 2022, the absence of any proper assessment of how such an error occurred and why it wasn't identified sooner means that it isn't possible for T212 to explain when it began and for how long the matter had been ongoing. It has said it identified the issue in July and August due to the size of Mr T's profits at the time, but it's clear that the profitability of the error for Mr T would've been relative to whatever price the instrument was actually trading at in the market.

And I'm satisfied that Mr T did give opportunities to T212 to identify the issue by pointing out the price he was seeing (which shows it was already being priced at only 2 decimal points).

I say this because whilst the instrument may not be as liquid as other instruments, and therefore its prices may only update occasionally when it is traded, this still wouldn't explain why it was priced to 2 decimal points on T212's platform and not 4 as it should've been. Mr T's contact in March 2022 was an opportunity that T212 missed to identify the error and immediately return Mr T's investment to him.

In my view, given these circumstances, Mr T's financial loss can't be quantified or put right

by simply refunding all the money he had invested in the instrument. I think that ignores the fact that but for the error on T212's platform, Mr T would've likely invested in something else – and used his money in some other way.

As I've said above, although I've considered Mr T's comments about how to put matters right very carefully, I'm satisfied it isn't possible for me to say, on the balance of probabilities, what else Mr T would've done with his money. In my view, there isn't a fair and reasonable benchmark that would allow me to estimate whether or not Mr T would've made a return on the money he invested in GraniteShares 3x Long Moderna Daily ETF if he had invested it in something else. Mr T wasn't trading the S&P500 or buying shares in that way – so I don't agree using the return of that index is fair and reasonable or is particularly applicable in this case. And I'm not persuaded there's a way in which Mr T's portfolio could be reconstructed without the benefit of hindsight.

I therefore remain of the view that the fair and reasonable way to put matters right for Mr T is to award what this service normally awards in circumstances of being deprived of money, which Mr T effectively was – he was invested in an instrument that by virtue of its incorrect pricing would never generate a return for him, but whilst he was invested in it, he could do nothing else with that money. And this situation lasted for an inordinately long amount of time. So I award Mr T 8% per year simple interest on the amount or amounts he invested in the GraniteShares 3x Long Moderna Daily ETF – starting with his first investment which I understand was in November 2021, until the money was returned to him.

Given the circumstances I also award £1,000 for the distress and inconvenience the matter has caused him. I acknowledge Mr T considers the impact to him means he ought to be entitled to more money for the distress and inconvenience, but I'm satisfied an award of £1,000 recognises the impact on him as well as the length of time the error had been occurring.

Mr T has estimated that fair and reasonable compensation ought to amount to £90,000. Whilst I've carefully considered how he has come to this figure, I'm not persuaded his proposal is fair and reasonable.

I'm satisfied the matter has had a profound impact on Mr T. I acknowledge the hardship he has endured, but I'm not persuaded that hardship was caused by T212's pricing error. As I've said above, I'm not persuaded it "unjustly" withheld his profits – I've found its decision to do so was fair and reasonable. And it wrote to him to explain why in a short period of time. In my view, Mr T's actions in leaving his employment before he had actually been able to withdraw those funds from his account, were premature. I'm not persuaded I can hold T212 responsible for this decision. Furthermore, his intended purchase of the property is in my view too remote from the pricing issues on T212's trading platform to conclude that he should receive compensation for the failed purchase.

I acknowledge Mr T disagrees that £1,000 is sufficient compensation for the emotional impact the matter has had on him. But this service doesn't operate like the courts and therefore doesn't award compensation for distress and inconvenience in the same way.

We have guidelines on our website for the types of awards we make and I'm satisfied, based on everything I've seen, that £1,000 is fair and reasonable compensation for the impact this matter has had on him and the award is in line with this service's approach to compensating for distress and inconvenience.

Mr T doesn't have to accept this final decision. He can reject this final decision, so it isn't

legally binding, and pursue the matter against T212 through the courts if he considers that his losses far exceed what I'm awarding here.

But taking everything into account, I remain of the view that what I've awarded is fair and reasonable in all the circumstances of this case.

I understand T212 has already carried out this calculation – and I'm satisfied it has done so fairly. It ought to provide this calculation to Mr T after we tell it he has accepted this final decision.

### **My final decision**

My final decision is that I uphold Mr T's complaint and I award the compensation above. Trading 212 UK Limited must pay this compensation to Mr T within 28 days of when we tell it he has accepted this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 18 October 2024.

Alessandro Pulzone  
**Ombudsman**