

The complaint

Mr M complains that Trading 212 UK Limited trading as Trading 212 sold shares from his stocks and shares ISA without his consent, rather than transferring them to his general investment account ('GIA').

What happened

Mr M has both a GIA and a stocks and shares ISA with Trading 212.

On 29 February 2024, Trading 212 wrote to Mr M to say that a particular holding (shares for a business I'll call "Z") no longer met HSBC eligibility criteria to be held within his ISA.

Trading 212 said that investors who have purchased Z stock through an ISA account – such as Mr M - would have to terminate their positions. He would be able to sell his holdings at his own discretion until 13 March 2024, at 3.00pm. At this point, if his position was still open, it would be closed on his behalf.

On 1 March 2024, Mr M asked Trading 212 if it would transfer his Z shares to his GIA. It explained to Mr M that it did not have the facility to permit transfers from an investment ISA to a GIA. Trading 212 also noted how Z stock could no longer be held in an ISA, but after a transfer of sale proceeds, Mr M could repurchase the Z shares in his GIA if he so required.

On 15 March 2024, Trading 212 sold the Z shares, as stated.

Mr M complained. In June 2024, Trading 212 rejected the complaint. It said it had acted in accordance with HMRC guidance in notifying Mr M and other affected shareholders with Z holdings in their ISAs that the shares had lost ISA eligibility. Up to 20 shares could still be purchased through Mr M's GIA, but they could no longer be held in the ISA.

Mr M brought his complaint to this service. He said not only did he feel that Trading 212's actions were unfair, but he had no confidence in it not to impose the sale of other stock in the future. He said he remained of the view that shareholders should not be unfairly punished for changes in rules or market conditions that were not foreseeable or known at the time of purchase. So, Trading 212 should either transfer the Z shares to his GIA or reimburse him for the loss he had suffered upon their forced disposal.

One of our investigators considered the complaint, but he didn't think it should succeed. He said he believed Trading 212 had acted within the terms and conditions that applied to Mr M's account. And since he didn't otherwise find that it had acted unreasonably, he could not conclude that Trading 212 had done anything wrong.

Mr M said he didn't accept the investigator's findings. He made some further submissions, noting:

- He hoped the investigator would offer precise comment on the fairness of Trading 212's practice in disposing of shareholdings to achieve purported compliance – when that wasn't exactly what HMRC required.

- He believed that the Financial Ombudsman Service provided neutral arbitration – which would encompass a conclusion as to whether businesses operate fair practices or not.
- It cannot be fair that this service endorses a business selling an investor's shares at a financial loss, rather than transferring the shares to an existing GIA.
- He has suffered a loss caused by Trading 212 – and he feels the loss was avoidable.
- To ask an investor to sell at an inopportune time goes against the principles of equity trading.
- A forced sale should not be deemed reasonable, nor should the shortcomings of Trading 212's system – if it didn't allow transfers from an ISA to a GIA that isn't Mr M's fault.
- The fact he may have been able to later repurchase the shares is immaterial.
- He wants the complaint to be considered by an ombudsman.

Trading 212 said it had nothing else to add.

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.

This service's role is to investigate disputes and resolve complaints informally, whilst taking into account relevant laws, regulations and best practice. In reaching my decision, I'll focus on the issues I believe to be central to the complaint to decide what I think is fair and reasonable in all of the circumstances. We are not a court; and though there are rules I may rely on in respect of complaint handling procedures, I am not required to comment on each point or make specific determinations on every submission put forward by the parties.

If there's something I haven't mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome based on all of the information before me. Though I realise my decision will be a disappointment for Mr M, I do not consider that it should be upheld.

It's also important for me to point out that we do not act in the capacity of a regulator. That remit falls to the Financial Conduct Authority ('FCA').

I have noted the regulator's function here because the crux of this complaint relates to how Trading 212 has operated; specifically in relation to its process regarding shareholdings in investment ISAs. However, though Mr M may believe otherwise, it is not my role to determine how Trading 212 complies with HMRC or other external regulatory provisions nor can I command it to operate differently. Instead, I have looked at whether it has treated Mr M fairly with its actions regarding the disposal of Z shares. And I believe Trading 212 has behaved reasonably in the circumstances.

I say that noting the 'Invest Terms' that apply to Mr M's account set out that:

"6.2. We may take any action that we, in our reasonable discretion, consider desirable to ensure compliance with applicable laws and regulations. We shall not be liable for losses, damages or delays arising from our compliance with any statutory or regulatory requirements.

6.7. We shall have the right to introduce new Investments and Market Hours for trading at the Trading Platform and to suspend and/ or remove from the Trading Platform any Investments and Market Hours at our sole discretion.

6.8. We reserve the right to immediately place a Sell-only Limitation in the following cases:

d. To comply with any regulatory obligations, including where you have not provided legally required information.

6.10. If a company goes bankrupt or is delisted from the respective stock exchange, we may attempt to obtain prices for the instrument on the over-the-counter (OTC) market. If this is not possible, you shall be informed that your Positions in shares of this company shall be closed, and you agree to the closing prices."

The terms I have included above explain that Trading 212 is permitted to sell the shares in Z without an instruction from Mr M in certain circumstances. I'm satisfied Trading 212 acted in line with the terms and conditions when it liquidated the Z holding after Mr M himself didn't do so.

Trading 212 has shown us the ISA eligibility conditions for common stocks, which are either common shares listed on recognised exchanges, or common shares listed on an unrecognised exchange but with a supporting listing on a recognised exchange. Z was moved to the OTC market in November 2023, however at that time it continued to have a supporting listing on several recognised European stock exchanges. However, by early 2024 this had changed; the supporting listings were delisted, so the Z shares were no longer eligible for ISAs, contrary to HMRC criteria.

I know Mr M questions why Trading 212 didn't move his holding into his GIA rather than sell it, given his preference would've been a transfer. But I don't think it's unreasonable for Trading 212 to terminate a customer's specific shareholding inside an ISA in the circumstances where HMRC eligibility (based on recognised exchange criteria) was no longer met. To assist customers, Trading 212 provides a list of all ISA-eligible stocks for trading on its website.

There was no obligation on Trading 212 to facilitate a transfer from the ISA to the GIA. In any case, Mr M could've sold the Z shares in his ISA and reinvested the proceeds by purchasing them in his GIA. Trading 212 didn't have a transfer facility, so this was the option open to Mr M if he wished to hold Z shares outside of his ISA. I note Trading 212 told him of this option as a prompt response to Mr M's queries, and in advance of the sale deadline.

My final decision

For the above reasons, I've decided that Trading 212 UK Limited acted fairly and reasonably when it sold Mr M's Z shares. I am therefore not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 April 2025.

Jo Storey
Ombudsman