

The complaint

Mr H complains that eToro (UK) Ltd ('eToro') didn't provide him with information relating to a shareholders meeting, including his ability to vote, regarding a shareholding he held on eToro's platform.

What happened

Mr H held open positions in AMC Entertainment Holdings Inc ('AMC') which would've allowed him to take part in a shareholders vote following a statement on 24 April 2024 that a shareholders meeting for those matters to be voted on would take place on 5 June 2024. All voting needed to be received by 11:59pm Eastern Time.

Before the deadline to vote passed Mr H hadn't received the documentation he was expecting which meant he wasn't able to cast his votes. Mr H didn't consider that eToro had treated him fairly and as he wasn't able to vote on matters he felt important to him, he complained to the firm about what happened.

In responding to his complaint, eToro offered him \$50 for what it said were technical issues in the voting documents and information being provided to him, but it didn't consider it fell below its responsibilities. In its view while there were technical issues, the terms and conditions Mr H agreed it excluded eToro's liabilities for issues caused by technical problems such as those it encountered with Mr H's voting information.

Mr H rejected eToro's offer and referred his complaint to our service where one of our Investigators considered it. Our Investigator thought eToro should increase its compensation offer to £200, inclusive of the \$50 already offered. In his view eToro had given incorrect information about whether Mr H could take part in the vote, the information relating to it and eToro's responsibilities around providing him with that information. The £200 he proposed was to compensate Mr H for the frustration he'd experienced in dealing with this matter with eToro.

eToro decided to accept our Investigator's outcome, Mr H didn't. In responding to our Investigator, he said this was because, in summary, eToro still hadn't evidenced the technical issues and had prevented him exercising his rights as a shareholder. He also raised other matters which aren't part of this complaint and so won't be addressed in my decision.

As an agreement wasn't reached, this complaint 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.

In doing so, I've reached the same conclusion as our Investigator. I know this will be disappointing for Mr H and I assure him I understand his strength of feeling about what's happened and the impact the issues around his voting has had on him. I'll explain why.

Firstly, Mr H has raised several issues relating to this matter most of which has been resolved under another complaint of his. For clarity, the issues referred to me to decide only relates to the difficulty Mr H had in receiving and making his votes through eToro in its role of safeguarding and administering his investments. I don't mean Mr H any disrespect by not commenting on the wider matters, they've simply already been addressed by our service in a final decision. So, I won't, and can't, discuss those aspects of his complaint.

Turning now to the complaint before me. When Mr H holds his shares with eToro, as is common with paperless shareholdings, it is the legal shareholder and who would be named on the firms share register. Mr H would be the beneficial owner underneath that, which is how firms typically hold shares for their clients when they are being held electronically on a platform.

A consequence of this is that any corporate actions, or events as eToro describe them, would be sent to eToro rather than Mr H. In its position of safeguarding and administering Mr H's assets, I would, in eToro treating Mr H fairly where it is in the position of receiving information related to or affecting Mr H's beneficial shareholding, expect eToro to pass such information when received onto Mr H, regardless of what its terms say on the matter. The evidence Mr H has provided demonstrates eToro, through one of the firms within its group, had previously sent him information about upcoming shareholder votes for AMC and would collect his votes as a proxy in those votes. It follows then I think it's fair and reasonable then Mr H had a reasonable expectation the same would happen prior for the vote relating to the 5 June 2024 shareholders meeting.

eToro has provided evidence which I think explains why Mr H wasn't sent the voting information for his shareholding. At the time it was transitioning from one provider to another, and it appears the 'record' date of the meeting being called – 11 April 2024 – took place a day prior to the new provider beginning to provide these proxy services for eToro. That in effect in my view likely demonstrates that Mr H being caught between this change and his vote not being sent to him.

In my opinion, eToro ought to have been aware of and alive to this possibility and prevented such circumstances from occurring.

I don't accept eToro's argument that its liability can be fairly excluded under its terms around 'Exceptional Events'. Its terms, at 29.2 say:

"If an Exceptional Event happens, the availability and speed of our service, including our platform, website, our execution of your order, the availability of the different functionalities which we may provide as part of our Services including instructions which you may give in respect of a trade, as well as any of our obligations under this Agreement may be delayed, may not be available , or may not be carried out. We will not be liable to you for any such losses you incur as a result."

The relevant 'Exceptional Events' that may apply here in my view would appear to be those under (j) and (k) at 29.1, which in summary are technical failures or failures of third parties.

But having considered that, I don't think it's fair for eToro to rely on those clauses here. In my view the issues in transitioning suppliers of the proxy services were reasonably foreseeable and avoidable. It wouldn't in my view be fair in such circumstances where eToro the issue is reasonably attributable to eToro's operational changes for it to fairly apply those clauses here. It follows then then that I think Mr H ought to have received his voting information and to have been able to take part in the vote he missed out on.

Having said that, given Mr H held a small number of the many million shares that appear to have been in issue at the time, I don't think it's likely his votes would've affected the outcomes reached in those votes. But, I do think this matter has impacted Mr H by causing his frustration and inconvenience. It's clear to me Mr H's involvement in being included in the voting in a company Mr H has a deep interest was very important to him. That along with the inconsistent and at times unclear information eToro gave him about its role and his entitlements to take part in this event had caused him frustration and his time in dealing with this matter.

Putting things right

In simple terms, my role is to put Mr H back in the position he would've been in had what went wrong not happened. Here that would be that Mr H would've been able to take part in this vote. But I can't reasonably attribute any financial loss to him not being included in that vote where in my view it's unlikely his votes would've changed any of those outcomes. But I can make an award of compensation that in my view fairly reflects the distress and inconvenience the matter of the issue around voting has caused him.

And having thought about that, I think £200 is a fair reflection of the frustration and inconvenience for the impact, as I've set out above, I think this matter had on him. And I direct eToro to pay that amount to Mr H, inclusive of any compensation it has already paid him regarding the matter of his vote.

If eToro has already paid compensation relating to the voting matter covered above, it can deduct that amount from the £200 I'm directing it pays him. Should such an amount have already been paid to him in a non-GBP currency, eToro should calculate that using the currency values as at the date of this final decision.

My final decision

I uphold this complaint and direct eToro (UK) Ltd to pay £200 to Mr H for the reasons explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 15 July 2025.

Ken Roberts
Ombudsman