

The complaint

Mr C complains that Trading 212 UK Limited ('T212') has unfairly accused him of taking advantage of an incorrect price – a manifest error – and trying to reclaim the £49,848.24 profit he made from those trades. He says he has been financially disadvantaged, and the situation has caused him stress and worry. He wants £20,264.40 returned to him.

What happened

Mr C had used the services of T212 for several years to trade contracts for difference ('CFDs'). On 14 September 2022 he received an email accusing him of exploiting pricing issues of four instruments – IBio Inc, Alset Ehome International Inc, Tate & Lyle PLC and BEST Inc – on its platform. Because of this, T212 had taken £11,800 from Mr C's account and was asking for an additional £38,048.24.

Mr C raised a complaint with T212 who responded to him on 25 November 2022. It said;

- It believed the considerable differences in the prices on its platform and the underlying market conditions was an apparent anomaly.
- As Mr C had taken advantage of the manifest error and the trades were invalid, £11,800 was reclaimed from Mr C's account.
- It requested that Mr C repay the remaining amount of £38,048.24 he had made on those trades.
- It detailed its terms and conditions that applied in the circumstances.
- It wasn't at fault.

Unhappy with the outcome, Mr C brought his complaint to this service. He told us that T212 hadn't provided any evidence that he had done anything wrong, and it refused to answer his questions.

Our investigator who considered the complaint didn't think it should be upheld. He said;

- He referred to the terms and conditions of the account Mr C had with T212 which allowed it to void trades affected by a manifest error.
- He wasn't going to ask T212 to repay the reclaimed funds to Mr C and didn't think it was unfair or unreasonable for it to ask Mr C to repay the balance but should do so taking account of his financial situation.

Our investigator forwarded to Mr C T212's evidence of the manifest errors – the incorrect prices compared to the quoted market prices. Mr C referred to the fact the errors had gone undetected for over a year during which time he had been able to trade, make a profit and withdraw funds on four different stocks. He said T212 was negligent.

He commented on stocks that were offered on platforms whose prices varied considerably from the underlying market prices because of wide spreads. Whereas T212 had penalised him for trading on stocks where it had decided manifest errors had occurred. He had

suffered losses of just under £10,000 as well as profits, so those loss-making trades should also be voided under the terms.

Mr C requested that his complaint be reviewed by an ombudsman, so it was passed to me for decision.

I was thinking of reaching a different conclusion than the investigator but wanted to allow the parties to provide me with any further information or evidence they wanted me to consider before I reach my final decision, so I issued a provisional decision. This is what I said'

'T212's obligations

Along with the relevant rules and regulations that T212 has to abide by, I've also taken into account T212's terms and conditions on its website and which Mr C agreed to when opening his account;

'4.12.1. By signing the Agreement, You are informed that a Manifest error may occur in the prices of certain Financial instruments to which You have access via the Trading Platform. Such Manifest error may result of technical errors or delays in obtaining the necessary information, which could make the quote incorrect. Any declaration by us of Manifest error will be made in good faith and based on a reasonable assessment of all relevant information.

4.12.2. If Manifest error in a specific quote is found, We shall be entitled at our discretion to cancel the Order and the relevant consequences – in terms of either a profit or a loss for You – immediately upon detection of such Manifest error. We shall not be liable for any damages or consequential loss incurred by You as a result of such cancellation.'

A manifest error is defined in the terms as being;

'an obvious error in the quotes of the financial instruments which substantially deviates from the prevailing market price and which has occurred as a result of a system or technical error.'

With regard to trading with CFDs on stocks and indices the terms go on to say;

'11.2.1. The price of the CFD changes on a daily basis and is close or equal to the exchange price of the respective base instrument – Stock, Index or Futures.

...

13.4 The trading You conduct on our Trading Platform is not conducted on an exchange or a market and are not cleared on a central clearinghouse. The CFD transactions are contracts with Us as your counterparty.'

Were the pricing errors manifest errors?

My reading of the manifest error definition is that there are two parts to the test for an error to be a manifest error;

- One is that the price needs to substantially deviate from the prevailing market price and

- the second is that it results from a system or technical error.

When responding to the complaint after it was brought to this service T212 provided 'Precision evidence' to support its argument there were manifest errors in the pricing of some of Mr C's trades. It has also sent 244 pages of Mr C's trading history. When comparing the two I couldn't see any evidence that there was an 'obvious error in the quotes of the Financial Instruments which substantially deviates from the prevailing market price.'

As an example, the quotes for the Tate & Lyle PLC – which I assume to have been lifted from Bloomberg – showed that the price at 22:24:09 was 711.40. The corresponding trade of Mr C's trading history showed Mr C's sell trade was carried out at 7.1. So, I wasn't satisfied there was sufficient evidence that Mr C's transaction was carried out at a substantially different price than the prevailing market price.

I wrote to T212 to say that if it wanted to rely on this information to show that manifest errors occurred in its pricing, and Mr C took advantage of that, I would need evidence to that effect. In response T212 highlighted there were 'two specific and compelling points'. The first was that it was irrelevant whether there was a substantial deviation in price or otherwise. This was because small deviations traded at high volumes can generate substantial gains if the price is incorrect. And importantly, it said that if there was any deviation from the correct price this in itself would constitute an invalid execution.

Second, the voided trades were limit orders which it pointed out was defined in its execution policy;

'Limit Order - Using this order type you can set a minimum price (for a sell order) or a maximum price (for a buy order) for which you want to execute your Order. In the case of a Limit Order to sell, your Order will be executed if the price obtainable in the market is equal to or higher than the price you have requested. In the case of a Limit Order to buy your Order will be executed if the price obtainable in the market is equal to or lower than the price you have set.'

T212 said that the prices for Mr C's limit orders weren't achieved in the market at the times they were executed. It was a technical issue that had led to the publication of the incorrect prices, and which stemmed from a system bug. The 'bug' incorrectly rounded the prices of the underlying instruments from four decimal places down to two. This created a discrepancy between T212's quoted price and the correct market price which Mr C exploited.

To my mind, by saying there was a 'system bug' implies that there was a 'system or technical error' as defined in T212's definition of a manifest error.

T212 also provided examples of Mr C's trade prices compared to the prevailing market prices where the price differences ranged from 0.35% to 1.25%. T212 says the trades themselves have not been voided but it considered the trades as invalid, and part of the profits had been reclaimed. And that was based solely on the fact that the trades didn't reflect the market prices at the time.

But I'm not convinced the differences between what T212 has told us were the correct market prices compared to the prices Mr C's trades were carried out were prices that would be identified as a price that 'substantially deviates from the prevailing market price' as per T212's definition of a manifest error.

In its response to my queries T212 said it was 'irrelevant whether the deviation in price is substantial, or otherwise.' I'm not convinced that, in itself, a deviation in price of between 0.35% and 1.25% is 'substantial' and in any event, that's not what the definition says. T212 defines a manifest error in a particular way and given that this is a price it was offering to Mr C as part of a bilateral contract, it needs to demonstrate that the prices fit its definition.

I'm not convinced I can safely conclude that it is fair and reasonable for T212 to decide that a price that doesn't substantially deviate from the prevailing market price is still a manifest error just because of how much it was traded. And that's also not what the term on pricing says, since it says the price can be 'close or equal to' – this indicates some deviation is possible.

Even if I am wrong on that point, it could be argued these are two separate points. The fact that substantial gains can be made from small deviations is a different argument than whether a price deviation in isolation is substantial. However, I've gone on to consider this further taking into account what other information has been presented to me.

The trades and was it reasonable for T212 to void those trades?

I've reviewed the trades and the length of time Mr C was carrying out those trades;

• BEST Inc	13.12.21 – 24.01.22	(42 days)	79 trades
• IBio Inc	01.04.21 – 20.12.21	(263 days)	733 trades
• Tate & Lyle PLC	24.06.21 – 14.09.22	(447 days)	41 trades
• Alset EHome Intl Inc	06.12.21 – 22.02.22	(78 days)	531 trades

With regard to the underlying market price and the prices offered on T212's platform, I do acknowledge, and as pointed out by Mr C, it's not always the case the prices offered by T212 are 100% reflective of the market price. It wouldn't be unusual to see some sort of deviation between the market price and the prices offered by T212 on its platform. This is reflected in T212's terms as quoted above.

So, the terms allow T212 some flexibility around its pricing – 'close or equal to' – it doesn't have to be exact, and Mr C accepted he was trading with T212 as counterparty, not on an exchange. But in this case, it's clear that the technical error in the pricing was the cause of the deviation rather than T212's decision to offer prices on its platform that differed from the underlying market price.

And in the particular circumstances of this complaint, I think this is an important point as T212 has told us that all of the voided trades were limit orders. Mr C only placed limit orders and the prices of those limit orders weren't achieved in the market at the times of the execution. In all instances the market prices were either above Mr C's requested buy price, or below the requested sell price. I'm satisfied the evidence available shows quite clearly that the prices Mr C's trades were executed at were incorrect – they were never available in the underlying market – and so I'm not persuaded it would be fair and reasonable for T212 to honour those trades in the circumstances.

To do so would be putting Mr C in a position it would never have been possible for him to have been in but for the technical error. The prices Mr C's trades were completed at were never realised so it wouldn't be right for Mr C to benefit from that

technical error. Effectively I would be saying that technical error should underwrite Mr C's position and he would be in a position of financial betterment. And this is line with T212's view that if there was any deviation from the correct price this in itself would constitute an invalid execution.

So, I don't think it would be fair or reasonable for me to say that T212 has to stand by the prices quoted and traded at. This is because I'm satisfied the evidence T212 has provided is conclusive evidence that the prices were erroneous in that it was a technical error that caused the difference in the prices and as a result, those prices were unrealistic.

I've also considered whether T212's conclusion that Mr C took advantage of the errors, and its subsequent reversal of his profits, was fair and reasonable. It has said Mr C has been able to use external pricing sources to determine the prices of the instruments quoted on T212's platform was incorrect. It believes the difference in the prices was apparent and that Mr C understood that fact well and resulted in abusive action based on the displayed information.

I accept that if Mr C was aware of the incorrect pricing, he would have been trading with a reduced risk compared to if there had been no pricing issue. Mr C denies he was exploiting the pricing issues, and I'm not convinced that Mr C was or should have been aware of the pricing errors. I say this partly because I'm not satisfied that the small percentage deviations in the prices quoted and traded at were sufficient for them to have been evidently wrong to Mr C. They were sufficiently 'close or equal to' the correct prices to not be evident even if Mr C was using external pricing sources. And I understand Mr C also incurred losses on those deviated prices in some trades which suggests to me that he wasn't aware of the errors otherwise he would have taken action to avoid those losses.

That being said, I still have to look at things in the round. I have to look at the prices T212 quoted and decide whether, on the evidence of the market data available to T212, and as provided to this service, the prices T212 was offering were reflective of whatever the underlying market was. But even if Mr C was unaware of the errors and trading in good faith, quite simply, T212 nor the prevailing market, weren't generating the prices of the instruments he was trading. So, it wouldn't be fair and reasonable to ask T212 to reprice the instruments or un-void the trades at prices that were never available in the first place.

Taking all of the above into account, I don't think it would be fair or reasonable to decide that T212 should un-void the trades it has identified as being triggered by manifest errors. Those trading prices weren't ever available in the prevailing underlying market and were caused by a technical error.

Putting the matter right

That being said, I think Mr C has lost out because the technical issues experienced by T212. T212 has a responsibility to provide a service that makes sure its customers receive the right prices on its platforms. In this case, it needed to have systems and safeguards in place to ensure that when the errors occurred it identified them quickly and took action. While an occasional technical issue can rise in the normal course of trading, I would expect to see that put right as soon as possible. But in this case, it took T212 between six weeks and 18 months to identify the pricing errors in the four instruments which in my opinion is too long. And during this time, I'm satisfied its more likely Mr C was trading in good faith and T212 had the opportunity to identify the errors.

But as I've said above, I don't think it would be fair and reasonable of me to direct T212 to un-void those trades carried out at the incorrect prices. Those prices were never available to Mr C. However, it equally wouldn't be right for Mr C to be refunded the funds he invested into those instruments. That would not take into account that Mr C would most likely have invested in something else. But it can't be known what Mr C would have done with the money with the benefit of hindsight.

And there isn't an index or benchmark I can compare the performance of the four investments to – one is quoted on the London Stock Exchange, two on the New York Stock Exchange and one on the NASDAQ. But Mr C has been deprived of his money while he was invested in the four instruments and there wasn't anything else he could do with his funds while he was invested. So, I think in the particular circumstances of this complaint Mr C should be awarded 8% simple interest per year on the amounts he invested from the start date(s) of those investments to the date of settlement.'

I was of the opinion Mr C's loss of expectation should be recognised and I thought T212 should pay Mr C £750 because of the impact of its pricing error and the significant worry Mr C had been caused as well as the length of time over which the errors have occurred.

T212 responded to say that it had noted the probable outcome of the complaint and that it was calculating the amount due to which it would add £750. However, it asked whether it would be appropriate for this to be deducted from the total sum I had concluded that it was entitled to seek so it could work out a repayment plan with Mr C for the remainder of the amount.

Mr C replied that he didn't agree with my provisional decision. He said T212's sole basis for voiding the trades was because it had concluded a manifest error had occurred on its platform. I had said that I couldn't see any evidence of an 'obvious error in the quotes of the Financial Instruments which substantially deviates from the prevailing market price'. And there was nothing further in T212's terms and conditions which could be relied upon to use as a basis for voiding the trades, regardless of the circumstances. As I had concluded that there was no manifest error T212 had no legal basis for voiding the trades.

Mr C failed to understand why I hadn't taken issue with T212 voiding any profit making trades but not the loss making ones. If T212 were correct in voiding the trades, then all trades during the period should be voided.

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.

After doing so, and reviewing the information presented to me as well as the party's responses, I remain of the same conclusion I reached in my provisional decision.

First, in response to T212's questions, it can net off any redress due against the losses on the account but not for the £750 payment which is awarded as a recognition of the loss of expectation suffered by Mr C. That is a payment for the distress and inconvenience caused and is a separate award than the award of 8% simple interest on the amounts invested.

Mr C has made two points in his response. My conclusion that a manifest error hadn't occurred would mean there was no reason for T212 to void the trades. Second, that all of the affected trades should be voided, both the profit making and loss-making trades.

In my provisional decision I concluded that I considered that it was likely Mr C wasn't aware of the incorrect pricing as the prices were sufficiently 'close or equal to' the correct prices. But I went on to further conclude that, in the round, it wouldn't be 'fair or reasonable to decide that T212 should un-void the trades it has identified as being triggered by manifest errors.' Those trades were caused by a technical error, and I was satisfied that T212 was able to evidence that the prices traded at weren't ever available in the underlying market so nor to Mr C.

Putting things right

As explained in my provisional decision, for me to ask T212 to un-void the trades would be putting Mr C in a position of financial betterment as the prices traded at never existed. But I did recognise that Mr C had been deprived of his money during the times of the investments and wasn't able to invest in anything else, hence the 8% interest award on that money.

Mr C referred to the loss-making trades that were carried out at the incorrect prices and these should be voided as well as the profitable trades. I agree with Mr C and have sought confirmation from T212. It said that all executed trades in the four instruments were cancelled which included both profitable and loss-making trades. It provided the following detail;

IBIO	iBio Inc	£26,753.46
HFEN_US_CFD	Alset Inc	£17,310.83
TATE	Tate & Lyle PLC	£4,508.65
BEST_US_CFD	Best Inc	£1,475.30
	Total	£50,048.24
	Amount Adjusted	-£11,800.00
	Total Due	£38,248.24

T212 also told us that there was a miscalculation in calculating the amount due. This was because £11,800 was deducted from the account instead of £12,000 as initially believed and the correct amount is as above and not £38,048.24. But T212 accepts that was its error, so it is willing to honour the lower amount of £38,048.24.

Mr C has said the issue is causing him financial difficulty. So, as mentioned in my provisional decision, while I am satisfied that T212 is entitled to reclaim any profits over losses that Mr C has made on the identified trades, I would expect it to genuinely take into account Mr C's financial circumstances when trying to reclaim those funds. It should work out an affordable way with Mr C for him to repay the additional profits considering his financial circumstances.

My final decision

For the reasons given, I uphold Mr C's complaint about Trading 212 UK Limited and the matter should be put right as outlined above. And I award Mr C £750 for the upset he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 February 2025.

Catherine Langley
Ombudsman

