

The complaint

Mr V complains that Trading 212 UK Limited ("T212") provided him with a contract for difference (CFD) trading facility that was inappropriate for him and then failed to take account of his vulnerabilities to prevent him incurring significant losses.

What happened

The background to the complaint is well known to both parties, so I won't go over it here in detail.

The impact of the complaint and what's happened, along with the effect it's had on Mr V, is not in dispute. I want to assure Mr V I recognise the difficulties he's faced and his continued challenges.

In summary

In brief, Mr V applied to use T212's services in October 2020. He opened an account featuring three facilities – share investment, an ISA and CFD trading. As part of the account opening process, in line with specific regulatory requirements, T212 had to assess the appropriateness of CFD trading for Mr V. In doing so, it determined that this type of trading wasn't appropriate and issued him with a warning explaining this, in line with the regulatory requirements.

Mr V proceeded to use the account, initially focusing on investment in shares, but later, from 2021 onwards, increasingly trading CFDs. This continued for several years until late 2023 when a request by T212 to Mr V for 'source of funds' information led to him making the complaint broadly as set out above.

T212 didn't uphold the complaint. It felt it had acted reasonably and correctly when it had opened the account. And it didn't think there'd been anything in the subsequent years that should've prompted it to act to restrict Mr V's activity, not until the complaint was made and Mr V explained his health situation and associated vulnerabilities. At that point T212 did take action to restrict his trading.

Mr V referred his complaint to this service

The complaint was referred to this service and, contrary to T212's view, our investigator concluded that the complaint should be upheld. This was based on information that had been available to T212 when the account was opened, which indicated that Mr V had been unemployed with a limited income.

The investigator felt T212 should've had regard for guidance in the Financial Conduct Authority (FCA) Conduct of Business Handbook (COBS) that suggested that if a prospective customer asked to go ahead despite being given a warning about appropriateness, as Mr V did, the business should consider whether to do so having regard to the circumstances – in this case Mr V's apparent unemployment and low income.

The investigator felt in these circumstances Mr V should've been prevented from trading. He recommended that T212 should refund the monies Mr V had paid to T212, minus any withdrawals made, and also pay £400 for the distress and inconvenience caused to him. The investigator did note, however, that following the opening of the account there'd been nothing that he felt should've prompted T212 to restrict Mr V's activity.

T212 didn't accept this, maintaining its position that it had acted correctly both when opening Mr V's account and during his ongoing use of the account.

So, as no agreement could be reached, the matter was referred to me to review.

I issued a provisional decision in which I said, in part –

“...I currently don't think the complaint should be upheld. Before I explain why, I want to assure Mr V that I have given a great deal of thought to the matter and taken account of the very challenging circumstances he's described. I appreciate this whole process will have been very difficult for him and he has my sympathy and thanks for being so candid. But nevertheless, it's important to remember that my role is to determine in all the circumstances of the complaint whether T212 acted incorrectly or unfairly in dealing with him. And based on what I've seen so far, while I in no way mean to diminish what Mr V has told us, I don't think it did.

I should also clarify that I'm satisfied I don't need to comment on every point raised to reach what I consider to be a fair and reasonable decision. Where I've chosen not to comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. That approach is in line with the rules we operate under.

Further, where the evidence is incomplete or inconclusive, I've reached my decision based on the balance of probabilities. That is, what I think is more likely than not to have happened in light of the available evidence and a consideration of the wider circumstances.

Although Mr V's complaint came about following a request from T212 for information about the source of his funds, it isn't really the making of that request which is at the heart of the complaint. Mr V's concerns are primarily with T212's actions, or inactions, in response to his ongoing trading and circumstances, particularly over the two years from December 2021, when most of his losses from trading CFDs occurred.

That said, I think it's right that I look at the matter in the round, from the point at which Mr V became a customer of T212 until the point his complaint was made, as much of what happened is linked. And further, because the investigator's view that the complaint should be upheld was very much focused on the account opening.

In respect of that issue, I'm satisfied the process adopted by T212 was correct and in line with the relevant regulatory requirements. It assessed Mr V's knowledge and experience of CFD trading and determined that it wasn't appropriate for him. It then issued him with a specific appropriateness warning (in addition to all the very clear generic warnings about the high risk of loss associated with CFD trading) highlighting that he might not understand the risks involved and pointing him towards using a practice account. Despite receiving this warning, Mr V nevertheless went ahead and traded CFDs, although I accept not in significant volumes to begin with.

The investigator referred to the FCA's guidance in COBS around considering the circumstances when a customer who's been warned about inappropriateness still wishes to go ahead.

The rules or guidance don't give examples of specific circumstances when businesses should prevent prospective customers from going ahead. And given the way the rules are written, I think if it didn't want people who 'fail' the appropriateness assessment to be able to trade, the rules would say so. The fact that businesses are guided to consider all the circumstances indicates that in the FCA's view, businesses need to balance the best interests of customers by weighing up the risks of the product or service demanded, versus the customer's interests in doing something they clearly want to do.

That said, I accept there is a question over the information T212 had at the point of account opening, about Mr V's circumstances; him being unemployed and on a low income. It's that information that led the investigator to conclude the complaint should be upheld. But as I noted above, there's no specific requirement that people in those, or similar, circumstances should be prevented from trading. And further, there's no absolute requirement that the wider circumstances be considered. As noted, it's guidance that's given in COBS.

I've not seen what, if any, consideration T212 gave to Mr V's circumstances, beyond assessing his knowledge and experience and warning him about the risks of CFD trading. But if I assume it didn't give any further consideration, I need to think about what might have happened if it had done – would doing so have led to it preventing Mr V from trading CFDs?

On balance, I don't think it would've done. I think if it had sought more information from Mr V it would've more likely than not have found that the very limited information it had been given as part of the account opening process didn't really reflect Mr V's circumstances. While he ticked boxes as part of the application process to indicate he was unemployed with an annual income under £10,000, his submissions in making the complaint I'm considering here confirm that he was employed full-time from October 2010 to March 2023 (although away from work on sick leave from December 2021).

I'm not sure why Mr V declared himself to be unemployed – he may perhaps have been between roles. But it does seem that any further enquiries T212 might've made would've likely given it an acceptable level of reassurance that it was reasonable to let Mr V go ahead and trade. On his own evidence he had accumulated savings from his ongoing employment, which would also have supported a decision to allow him to go ahead.

Once Mr V began to use his account, he immediately invested £19,000 in a specific line of shares in his ISA. There was then a related rights issue he wanted to take advantage of and there followed communication with T212 about how this could be facilitated. This led to a complaint as Mr V was clearly very concerned that he might miss out on the opportunity. But the matter was resolved by 5 November 2020.

I think this interaction is important because firstly, I think it indicates that Mr V, while maybe inexperienced in respect of CFD trading, had a reasonable understanding of general investment. And secondly, it relates to Mr V's primary cause for making his present complaint. As noted, he feels that, account opening aside, T212 should've done more to limit his ongoing trading, and therefore related losses, considering what it knew (or at least should've known) about his vulnerabilities – more specifically his mental health issues.

Once the rights issue matter was resolved Mr V sent an email to T212 on 5 November 2020 saying, in part:

"Pardon the delay in reaching back. I am satisfied with the outcome. The whole experience was very difficult, mentally and physically. Thus the delay, as I needed to recover."

Mr V has pointed to this as a 'red flag' that T212 should've acted upon to obtain more information about his situation and his health. While I recognise that it's clear from this

message, and other communication that preceded it, that Mr V had found the rights issue matter difficult, I nevertheless don't think this was enough, in isolation, to prompt T212 to take further action, or to restrict his trading in any way. The message related to a very specific issue, expressly said he was satisfied and, further, it wasn't CFD, or loss related.

After this communication relating to the rights issue, Mr V continued to trade and began to focus more on CFDs, but there doesn't seem to have been any further indication of concerns until three years later when the source of funds information was requested. Mr V was clearly not happy with this request and in response to it explained to T212 that he was in the process of making a complaint, which he did in January 2024.

As part of this process, having not received the requested source of funds information from Mr V, T212 placed restrictions on his account, preventing new positions from being opened and withdrawals made. However, when Mr V provided more information about his personal circumstances and particularly his ill health, which hadn't been communicated previously, the withdrawal restriction was lifted.

Looking at the three-year period from when Mr V opened his account to when he made his complaint, it's clear that his frequency of CFD trading, and in turn his level of losses, did increase. But I don't think there was anything that should have necessarily put T212 on notice that it should act. As noted, once it became aware of Mr V's issues, it did so and restricted the account.

I accept there's an argument that if T212 had sought source of funds information sooner, then the issues that became apparent in late 2023 might've become apparent sooner, so Mr V's account and trading would in turn have been restricted sooner. But there was no requirement for T212 to seek the information at a specific time or with a specific frequency.

In summary, while I'd stress again my sympathy for Mr V and his situation, I'm currently unable to conclude that T212 acted incorrectly. As is often the case with this type of situation it's quite possible to conclude that T212 could have done more, but I don't think it's the case that it should have done. On Mr V's own evidence for the first year of his relationship with T212 his share investments were in profit and his broad portfolio was in a good state.

Clearly it was after his diagnosis in December 2021, received over a year after he started trading with T212, that things became worse for him. But I've seen no evidence that shows that T212 was aware of his diagnosis or other circumstances. A year into trading he would've gained generally in investment experience and knowledge and an increased focus on CFD trading (the high risks of which, as noted, he'd been clearly warned about) may have been simply a natural progression, not something that ought necessarily to have prompted T212 to act differently.

As I've said, I understand Mr V will be very disappointed that I've reached a different conclusion to that reached by the investigator. But this is a provisional decision, so, as noted, he (and T212) can comment or provide more evidence before I make a final decision on the matter."

T212 confirmed it had nothing it wished to add in response to my provisional decision.

Mr V provided a further submission, along with additional evidence for me to consider.

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, and while I recognise it will come as a great disappointment to Mr V, I remain of the view that the complaint should not be upheld, for the reasons given in my provisional decision.

I've given very careful consideration to his further submission and the additional evidence he's provided. But as I said in my provisional decision, to reach what I consider to be a fair and reasonable decision I'm satisfied I don't need to comment on every point raised. Where I've chosen not to comment on something in this final decision, it's not because I haven't considered it. It's because I've focused on what I think are the key issues, as I'm keen to ensure that Mr V understands why I'm not upholding the complaint.

I've noted the evidence Mr V's provided regarding his health and wider personal circumstances, some of which I've seen previously, some of which is new. In response to his comments made in his submission, I must stress that at no point have I ignored or sought to dismiss any of the evidence he's provided, either prior to or in response to my provisional decision.

But the key issue in considering this complaint is not the undoubted impact those difficulties and challenges have on Mr V. Rather, I think it's whether T212 was aware, or ought to have been aware, of them earlier and as a result should've acted to restrict Mr V's trading.

As I said before, I'm satisfied T212 administered the account opening process in 2020 correctly and in a fair and reasonable manner. In respect of Mr V's employment status at the time, he's questioned my previous comments regarding this. But it was he who had provided confirmation of having been in full-time employment from October 2010 through to March 2023 (although absent due to ill health from December 2021), so at the point of account opening. And he's provided further evidence to support this in response to the provisional decision. So, I remain of the view that it's reasonable to conclude that he was in employment when the account was opened, so any further enquiries T212 might've made at the time would've confirmed that status and more likely than not resulted in it allowing him to go ahead and trade.

After the account opening process was complete and Mr V began to use his account, the question then is whether there was any earlier point at which T212 should've intervened, contacted him and determined that his trading should be restricted.

There was, as previously noted, the rights issue situation early on, in 2020, that involved communication between the parties. But as I said before, I don't think T212 should've acted differently in response to that. There was also some further general communication during the first months of 2021 with Mr V making administrative queries regarding T212's app and asking some other investment-related questions. But there was nothing that indicated concern on his part, or of a nature that I think ought to have put T212 on notice that provision of its service to Mr V was likely to create any problems. There was then no further communication between the parties until late 2023, and the source of funds issue that ultimately led to Mr V making his complaint.

As I say, this is a key issue – what T212 might otherwise have done during that period when Mr V was experiencing ill health and being impacted by other personal issues. But as an execution-only service, I don't think it's unusual or unreasonable that T212 made no further intervening approaches to Mr V during the period in question. I note that he's compared T212's actions, or lack of, with those of several other financial business and pointed to a variety of regulatory requirements. But I don't think they reflect the circumstances here. Different types of financial business are subject to different requirements.

Further, I've not seen anything to suggest that T212 treated Mr V differently to any other customer, or that the initial problem with the rights issue in 2020 led T212 to manage his account in any way differently to the way in which it would normally have done.

As I've said, I do understand how difficult this has been for Mr V. But in all the circumstances I find I'm unable to conclude that T212 acted unfairly or unreasonably in relation to him or his account.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 8 October 2025.

James Harris
Ombudsman