

The complaint

Mr P complains that Freetrade Limited won't do more to help him obtain a share certificate for some shares he holds with it.

What happened

Mr P has a share dealing account with Freetrade. He bought some shares in a company I'll call E in 2021.

It's common ground that in 2022, after the outbreak of war in Ukraine, trading in E shares in the UK was suspended due to E's links to Russia.

Later in 2022, E's UK based registrar ceased providing services and maintaining the register of shareholders in the UK for E.

In 2024, Mr P contacted Freetrade to try to sell his E shares. He was told it wasn't possible, and that he couldn't transfer or withdraw his shareholding. Mr P complained. Freetrade said it couldn't facilitate a trade in E shares due to the continuing sanctions and restrictions on trading those shares in the UK. And it said it didn't have any obligation to facilitate Mr P obtaining a share certificate to effectively withdraw his shareholding from Freetrade.

Mr P wasn't satisfied and came to our service. One of our investigators looked into the matter, and didn't think Freetrade had done anything wrong.

He said that it would be unreasonably challenging to separate Mr P's individual holding from Freetrade's other client holdings in E. And he noted that there was currently no UK registrar through which Freetrade could arrange such a transaction. The investigator thought Mr P might not be able to sell his shares anyway given the sanctions in place. He was satisfied Freetrade didn't have a contractual obligation to certificate Mr P's holding and so didn't think the complaint should be upheld.

Mr P didn't accept the investigator's assessment and asked for an ombudsman's decision. He said other brokers had been able to let E investors obtain share certificates – so this was a case that Freetrade was unwilling to help, not unable to do so. He said Freetrade ought to have records of how many shares he held, so identifying those shares amongst its pool of shares held for all investors shouldn't be onerous. He also said if he was able to get hold of certificates there was a process in place whereby he could sell his shares directly to E.

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 reaching my decision I'm obliged to have regard for, amongst other things, relevant law and relevant regulatory rules.

Here, the legal contractual position is relevant. I've considered what the terms of Mr P's account with Freetrade (which I'm satisfied he'd have agreed to in order for his account to be

opened) say.

These terms say at clause 20.1 that Freetrade will *“act as the custodian of the Investment in your Freetrade Account(s), which means that we keep them in safe custody for you”*. At clause 20.2 the terms go on to say that while Mr P remains the beneficial owner of his investments, title to them will be registered in the name of either a nominee company or a sub-custodian outside the UK.

At clause 20.7 the terms say Mr P's investments will be *“mixed (pooled) with Investments belonging to our other customers”*.

As well as the account terms, Freetrade also needed to ensure it complied with the FCA's Principles for Businesses (PRIN) and Conduct of Business Rules (COBS). In particular COBS 2.1.1R says that Freetrade needed to *“act honestly, fairly and professionally in accordance with the best interests of its client”*.

I don't think Mr P disputes that Freetrade was entitled to hold his shares as nominee on his behalf, or that it could pool the holding representing his beneficial ownership with those belonging to other clients. Mr P's said that despite this, Freetrade ought to be able to identify which of its E shares represent his beneficial ownership. I agree with him on this point. Freetrade's terms say (at clause 20.7.1) it won't be possible to separately identify his investments *“except through our internal books and records”*. So I think Freetrade could, and should, through its own records, be able to identify how many of the overall number of E shares it holds for clients are beneficially owned by Mr P. But I don't think that's the key issue here.

Freetrade has said that certificating shares isn't a service it offers. And in one sense, I agree with that too. I'm satisfied the terms say Mr P's shares will be held by Freetrade (or a sub-custodian) on a nominee basis and don't set out any rights or obligations with regard to certificating a shareholding.

But Freetrade is holding those shares *on Mr P's behalf*. And under COBS 2.1.1R it needs to act according to Mr P's best interests. Because of this I don't think it's quite enough to say that certificating isn't a service Freetrade offers. I think there are circumstances where re-registering a portion of its holding of shares in a company into the individual name of a given client would be a reasonable thing to expect Freetrade to do in its client's best interests, if a client wanted to certificate his or her holding.

Crucially though, like our investigator, I don't think these are those sort of circumstances. I accept Mr P clearly wants to have the certificate for his shareholding and to have them registered in his own name rather than through Freetrade. I think it's in his interests to allow him to do what he chooses with shares he's the beneficial owner of.

But Mr P's aren't the only interests Freetrade needs to have regard for. It's entitled to have regard for its own interests, and notably it needs to have regard for the interests of all its clients, not just Mr P.

Here, the particular and unique circumstances around E shares mean that I find it fair and reasonable for Freetrade not to attempt to certificate Mr P's E shares.

I say this for a few reasons. After the initial suspension of E's shares trading in the UK in 2022, E retained a UK registrar. I understand investors could certificate their shares for a period of time until around August 2022, when the UK registrar stopped acting for E.

At that stage I understand that all UK shareholders, including nominees like Freetrade, were

issued share certificates for their holdings.

I think that's important. Because while I agree with Mr P that Freetrade should be able to identify how many of its shares are his, separating them out from its other clients' holdings isn't as straightforward as in the normal course of events when holdings are administered through a registrar electronically and/or through a central clearing house or depository like CREST.

I understand E itself is managing its own share register and offers the option for nominee shareholdings to be re-registered to certificate individual beneficial owners like Mr P. But doing so would involve Freetrade taking action with *all* its clients' shares – as it would need to submit the share certificate for all its combined holdings.

So in order to facilitate Mr P's wishes, Freetrade needs to take steps involving all its clients' E shares, and this would have to be done physically rather than electronically, with a company based overseas which is subject to UK sanctions, without the benefit of a UK registrar intermediating. Taking all this into account I think it's a reasonable exercise of Freetrade's commercial judgement to choose not to engage with that process. I'm satisfied that this is consistent with its obligations to act in the interests of all its clients, and ensure it safeguards the investments it holds for them.

So while I know it will come as a disappointment to Mr P, I don't think Freetrade has treated him unfairly or unreasonably by not letting him certificate his E shares. I note Mr P has said other brokers have allowed this to happen. I can't comment on the actions of other brokers or their risk appetites – but for the reasons above I don't think under the terms of Mr P's agreement with Freetrade, or under its wider regulatory obligations, Freetrade ought fairly and reasonably to be expected to carry out the transaction he's asked it to.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 May 2025.

Luke Gordon
Ombudsman