

The complaint

Ms P has complained about Saxo Capital Markets UK Ltd, trading as Saxo ('Saxo') and its decision to no longer offer its service in South Africa. She says this has caused her to incur a financial loss which she wants repaid and she has been deprived of a future financial gain.

What happened

Ms P had an account with Saxo which included equities, exchange trades funds ('ETFs') and contracts for difference ('CFDs').

On 19 February 2024 Ms P was informed by Saxo that it would cease operations in South Africa, and she was given the option of transferring to a broker linked with Saxo or another broker of her choosing. The request to migrate to the linked broker had to be done by 20 March 2024 and the last day for trading on Saxo's platform was 2 April 2024 otherwise it would close Ms P's positions.

Ms P was frustrated in the various attempts she made to transfer her CFD positions to both the linked broker and other brokers of her choosing, and which resulted in Saxo closing her positions.

Ms P raised her concerns with Saxo who responded;

- The CFD trade contracts were between Ms P and Saxo so they couldn't be transferred. Its closure notification made this clear.
- The Greek account – one of the alternative accounts Ms P had opened – was with a separate legal entity of Saxo so the positions couldn't be transferred.
- By extending the closure date for Ms P to have sold her positions at breakeven would have meant Saxo staying open indefinitely as it wasn't known the price would be reached. The closure date had been extended four times.
- Liquidation was the only option which resulted in a loss of US\$12,649. Saxo said this should have been more clearly explained to Ms P as well as a clearer explanation of why the CFDs were non-transferable and which Ms P had to chase for.
- Liquidation fees of US\$615.86 had been refunded to Ms P, interest accruing on account had been paid and Saxo offered £100 for the inconvenience suffered. It then increased the offer to £500.

Unhappy with the outcome Ms P brought her complaint to the Financial Ombudsman Service. Our investigator who considered the complaint didn't think Saxo needed to do anything more. He said;

- He couldn't see that the information Saxo gave about the linked broker was incorrect and it was likely to be the case it couldn't receive calls from landlines. Ms P could have proceeded with the migration of her account in spite of her not being able to contact the linked broker.
- He was satisfied Saxo made it clear that OTC positions couldn't be transferred but

should have made it clearer this also applied to Ms P's CFD positions, but he appreciated why Ms P assumed the CFDs were transferrable from subsequent email conversations she had with Saxo.

- Given the nature of the product Saxo hadn't treated Ms P unfairly when it informed her it was unable to transfer her existing positions. Positions could be transferred but needed to be liquidated before transfer and then reopened with another broker.

Ms P didn't think the investigator had addressed the substantial loss suffered which she said equated to around nine years' worth of pension payments. The offer made by Saxo would only cover the costs of the numerous overseas phone calls she had to make. If Saxo had contacted the linked broker, she could have transferred her CFDs and sold them at the right time. Saxo could have offered to keep her CFDs open with a sell order for each position for when the price reached break even. It would have been possible to transfer her positions to her Greek account as it would just have required permission.

Ms P's comments didn't change the investigator's opinion of the outcome of the complaint. As the complaint remains unresolved, it has been passed to me for a decision in my role as ombudsman.

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, I've reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why.

The termination

Saxo took a commercial decision to no longer provide services in South Africa. In closing the account Saxo relied on clause 33.3 of its General Business Terms which Ms P agreed to when she opened the account;

33. Termination

...
33.3 Saxo is entitled to terminate the relationship with you by giving at least 30 days' notice via a Durable Medium...'

I'm satisfied Saxo acted within the agreed terms when it decided to no longer offer its services in South Africa.

The transfer of CFDs

I am also satisfied the closure notification sent to Ms P on 19 February 2024 made clear that the CFDs couldn't be transferred to the linked broker;

'Please note that OTC positions are not able to be transferred directly and will instead be closed at the prevailing market value in your Saxo account and re-opened at the same price in your new [linked business] account.

Some positions may not be transferrable for reasons including market rules. Should this be the case, Saxo and [linked business] will assist you with such positions on a case-by-case basis.'

Saxo could have perhaps been more specific that 'OTC [over the counter] positions' included CFDs but as Ms P had 'been a client of Saxo Bank UK for many years', I think it likely she would have known all CFDs are OTC products. And I note the General Business Terms provides a definition of OTC:

'OTC means "over the counter", i.e. not listed or traded on any Regulated Market or other market...'

CFDs aren't listed or traded on any regulated market as the contract is with the broker and have different specifications that vary between brokers in line with the agreed terms of the contract. When trading a CFD the investor enters a contract with the broker but doesn't own the actual asset. It follows that a CFD on one platform is not the same instrument as a CFD on another, even if it tracks the same underlying asset, so I'm satisfied with Saxo's subsequent explanation about why they couldn't be transferred as the contract entered into was a proprietorial contract with the broker.

If Ms P didn't want to transfer to the linked broker but to choose her own, she was further informed;

'Please note that due to market rules, not all positions are transferrable. In such cases, Saxo will assist on a case-by-case basis.'

I don't think this was as clear as the earlier notification that CFDs could not be transferred at all and would need to be sold and reopened elsewhere if that is what the customer wanted to do. So, I've also considered what Ms P was subsequently told during her contact with Saxo bearing in mind that I think she misunderstood what the termination notice said about the transfer of her CFDs.

I have been provided with copies of emails and contact notes from both parties. I have read them all and refer to what the I think are the most relevant communications below.

Transfer to the linked broker

For Ms P to have transferred her account to the linked broker she had to provide her consent before 20 March 2024 to be included in a 'mass migration' of accounts. But by this time Ms P was trying to directly contact the linked broker without success.

I note the linked broker has since confirmed to Ms P that telephone calls from landlines weren't being received – which is how Ms P was trying to make contact – but this was corrected in July 2024.

In response to Ms P's queries about this on 19 March 2024 Saxo reminded her she needed to provide her consent to transfer. It said it only had the one contact telephone number for the linked broker but provided the email address as well which looks correct when I checked it online.

While Ms P must have been frustrated by her inability to contact the linked broker, I can't see that this was the fault of Saxo. It offered her the option to consent to the transfer without having to contact the broker but as Ms P chose to contact the linked broker independently, it provided a correct phone number and email address. It was Ms P's decision not to participate in the migration of her account – which wouldn't have included the CFDs in any event – and Saxo wasn't to know the number provided couldn't receive calls from landlines and it's now clear that this was a fault at the linked broker's end.

But I would reiterate what I have said above about Ms P being told in the termination notification under 'Step 2: Transfer to [linked broker]' if she were to migrate her account the OTC positions couldn't be transferred and would need to be sold and reopened in the new linked broker account.

Transfer to the first broker of Ms P's choosing

As Ms P didn't have any success contacting the linked broker she then opened an account with an alternative broker and I can see she was in contact with Saxo about this from 19 March 2024. In response, Ms P was told by Saxo on 25 March 2024 that;

'regarding the securities transfer, we have contacted our internal transfer team to coordinate the process with your external broker...'

The termination notice, with regard to transfers to non-linked brokers, said that 'due to market rules, not all positions are transferable' so I think there was the potential Ms P might not have understood. And I think this was a lost opportunity for Saxo to have made clear to Ms P sooner that CFDs couldn't be transferred at all – whether that be to the linked broker or a broker of Ms P's choosing.

Further to its earlier email Ms P was then told on 3 April 2024;

'according to the confirmation received from our stock transfer team, we cannot transfer the positions listed below [three positions] as they are CFD positions. We do not facilitate the transfer of margin products...Therefore, please close the CFD positions and inform us once it's done so we can initiate the cash transfer process.'

I'm satisfied Ms P was clearly told at this time that CFDs couldn't be transferred to a broker of Mr P's choosing, albeit that response took ten business days.

But Ms P was then given different information.

On 15 April 2024, further to a conversation with Saxo, Ms P asked for her positions to be voided so the margin could be released for the cash to be paid out. Saxo confirmed in an email this couldn't be done and referred to the earlier option of migrating to the linked broker which it incorrectly said would have included CFDs as it was an internal transfer. But it also correctly said it couldn't transfer CFDs externally.

And I can see Ms P's understanding wasn't later helped by Saxo saying in May 2024 that it would 'not charge your CFD transfer, all costs are determined by' the linked broker which I think implied a transfer of CFDs could have taken place and which I appreciate wouldn't have helped Ms P's understanding.

Transfer to the second broker of Ms P's choosing

After not being able to contact the linked broker or transfer her CFD's to Ms P's first alternative broker Ms P then opened an account in Greece with a broker that was linked to Saxo. Because of this she incorrectly assumed the CFDs could be transferred. She informed Saxo of the Greek account on 16 May 2024.

I can see from call notes that during a telephone conversation on 16 May 2024 Ms P was advised that CFDs weren't transferrable. And on 27 May 2024 Saxo confirmed that as the new account was held in Greece it fell under a different entity/jurisdiction and so different regulations applied. So, it wasn't possible for Ms P to transfer her CFDs.

But in the meantime, Ms P was misinformed by the linked broker about the transfer of CFD positions. In its email of 28 May 2024, the linked broker told Ms P;

‘The option of moving CFDs without closing the positions was only available during the migration period, on the back of an approval from Saxo for accounts that had accepted the transfer.’

And;

‘The approval was only for the migration period...’

That information wasn’t correct. But in any event, Ms P had already chosen not to take part in the migration of her account to the linked broker.

So, after the initial termination notice I can understand Ms P’s confusion. While Ms P was told on 3 April 2024 Saxo couldn’t facilitate the transfer of CFDs and the positions should be closed, she was misinformed by Saxo on 15 April 2024 and by the linked broker on 28 May 2024 – which I accept wasn’t Saxo’s responsibility – that the transfer of her CFDs would have been possible if she had given instruction prior to 20 March 2024. But this wasn’t the case.

However, I don’t think overall this would have made any difference to the outcome. While Ms P may not have understood the implications of the termination, and I think Saxo missed opportunities to correct her misunderstanding by giving her incorrect information, there was no other option open to Ms P than closing her positions and reopening them with a different broker if that is what she wanted to do. So, while Ms P must have undoubtedly been frustrated during this time – when she was trying to open accounts with other brokers and seek alternative outcomes with Saxo – there weren’t any other courses of action other than closing her CFD positions.

It was made clear in the termination notice that it wasn’t possible to transfer CFDs to the linked broker but I do think it could have been made clearer that transfer to alternative brokers was also not possible. I think it likely Ms P didn’t understand the termination notice and what that meant for her CFD positions and after that notice Ms P was given conflicting information.

While there was confusion in subsequent correspondence and opportunities missed when it was clear Ms P was making efforts to open accounts elsewhere – where the CFD positions couldn’t have been transferred in any event – overall, there was no other course of action open to Ms P. The only option was for Ms P to liquidate her positions.

But I think Ms P was distressed and inconvenienced during this time and this should be recognised. Saxo has already offered £500 for this and I think this is a reasonable reflection of the upset she has been caused.

Closure of Ms P’s CFD positions

Ms P sought assistance from Saxo about how to resolve the issue, but it confirmed that nothing could be done. However, it did extend the termination of the account so that Ms P could manage her positions.

But I agree with Saxo that it wouldn’t have been reasonable for it to have kept Ms P’s positions open until they reached break even so a loss wouldn’t be incurred. Quite simply it couldn’t be known if that price would ever be reached and it was just as likely that Ms P would have incurred additional losses if further extensions were allowed.

And it's clear that Saxo did try to help by extending the termination four times until 12 June 2024 – nearly four months after the termination notice – when the positions were closed.

Saxo was entitled to close the positions without referring to Ms P in line with its General Business Terms;

- ‘12.2 Saxo has the right...to limit, reduce the size of and/or close out your open positions...Situations where we may exercise the right to limit, reduce or close your open positions included, but are not limited to, where:
 - ...
 - (vi) your relationship with Saxo is terminated in accordance with Clause 33 (Termination)...
 - ...
- 33.5 From termination, Saxo will have the right to close any Contracts and/or related orders...The relevant provisions of these terms will continue to bind you and Saxo in respect of such Contracts and/or related orders until they are closed and all associated obligation are fulfilled.’

Taking all the above into account, I don't uphold Ms P's complaint. I'm satisfied Saxo made clear in its termination notice that the transfer of CFDs to the linked broker wasn't possible. And while I think there were missed opportunities where Saxo could have clarified Ms P's misunderstanding of the situation, it's clear the outcome wouldn't have been any different in that the positions had to be closed before a transfer to another broker could take place.

The fact that Saxo was closing its services in South Africa must have been frustrating for Ms P. And she went to great efforts to try to transfer her CFDs elsewhere, which wasn't possible. But Saxo acted in line with its General Business Terms in its decision to close its services, provided the necessary notification to Ms P and in closing Ms P's positions.

Unfortunately for Ms P, Saxo's decision to cease trading in South Africa led to her incurring losses and she has explained the impact those losses are having. But for the reasons given, I can't agree Saxo has done anything wrong in deciding to do that.

But the interest payments on her account have been correctly paid and Saxo has also offered the total sum of £500 for the inconvenience Ms P suffered in being given conflicting information after the termination notice was provided. I agree that the offer is fair and reasonable under the circumstances of the complaint.

It is for Ms P to decide whether to accept that offer.

I appreciate Ms P will be disappointed with my decision. It's clear she understandably feels strongly about what happened. But I hope I have been able to explain how and why I've reached the decision that I have.

My final decision

For the reasons given, I don't uphold Ms P's complaint about Saxo Capital Markets UK Ltd trading as Saxo.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 22 December 2025.

Catherine Langley
Ombudsman