

The complaint

Mr E complains that Hargreaves Lansdown Asset Management Limited ('HL') unfairly sold his shares without his permission.

Mr E states that he's missed out on c£14,000 in investment growth because of HL's actions so he'd like them to reinstate the shares that they've sold.

What happened

Mr E holds an execution only share dealing account with HL. As he held US stocks within his account, he was required to hold a W-8BEN form which certifies the consumer's foreign status and enables them to benefit from reduced withholding tax rates on US income, such as dividends.

On 22 November 2023, HL first notified Mr E by secure message that his W-8BEN form was due to expire. They explained that he was required to complete a new W-8BEN form before 31 December 2023 in order to continue holding and trading US shares. The message also outlined that if the form was not completed before 31 December 2023, then his holdings would be sold. Three further secure messages were sent to Mr E on 1 December 2023, 19 December 2023 and 29 December 2023, outlining the same message as before. A final reminder was then sent on 15 January 2024 in which HL outlined an extended deadline up until 19 January 2024.

Each time a secure message was sent to Mr E, HL also sent email notifications to the email address they held on record for Mr E which explained that he had received a new secure message, and that a deadline applied so that he would need to read the message without delay. After not receiving a completed W-8BEN form by the deadline, on 31 January 2024, HL sold 337 CBRE Group Inc shares that Mr E held in his share trading account with them.

Shortly afterwards, Mr E decided to formally complain to HL. In summary, he said that he was unhappy that HL had sold his shares. After reviewing Mr E's complaint, HL concluded they were satisfied they'd done nothing wrong. They also said, in summary, that their records show five secure messages were issued to reiterate the requirement to renew the W-8BEN form prior to the deadline. And, they said, those messages were issued in line with his contact preferences. The deadline to renew was extended to allow him more time to respond and in addition, during this period, they explained that they had added a reminder banner online which would have been clear on both the website and mobile app.

Mr E was unhappy with HL's response, so he referred his complaint to this service. In summary, he said that whilst HL may have sent him emails about the form, their messages all look the same, such as for daily news so they should have tried to contact him by other means. To put things right, Mr E said that he wanted HL to reinstate the 337 CBRE shares that they sold.

The complaint was then considered by one of our Investigators. He concluded that HL hadn't treated Mr E unfairly given the volume of attempts they'd taken to bring the matter to his attention. Mr E, however, disagreed with our Investigator's findings. In summary, he said:

- He had not opted for paperless contact. He had received a letter from HL on 17 March 2025 that demonstrates HL can communicate with him via post when it suits them.
- He finds it astounding that HL are prepared to send him a letter when they are seeking further investment from him but not when they are managing his account and are about to disadvantage him: *"This points to a culture at HL of profitability first and shows little regard for protecting my investments"*.
- If HL can see that he's not opened multiple secure messages on their system, their controls and processes should be such that they communicate via a different method – such as post.

Our Investigator was not persuaded to change his view as he didn't believe Mr E had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mr E then asked the Investigator to pass the case to an Ombudsman for a decision.

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.

I have summarised this complaint in less detail than Mr E has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr E and HL in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr E's complaint - I'll explain why below.

I think it would be useful to explain the background to why HL needed a fully completed W-8BEN form on Mr E's account. As a regulated share dealing firm, HL are required to comply with the US Internal Revenue Service (IRS) rules governing non-US investors who hold US securities. One of these requirements is the submission of a valid W-8BEN form, which certifies the consumer's foreign status and enables them to benefit from reduced withholding tax rates on US income, such as dividends.

Without a valid W-8BEN on file, HL are legally obliged to treat the account as undocumented for US tax purposes. This exposes both Mr E and HL to unwelcome consequences, including the imposition of a default 30% withholding tax on US income and the potential for IRS penalties or sanctions for non-compliance. In addition, it's entirely possible that

custodians and clearing agents may refuse to process US trades or income distributions for undocumented accounts, which can disrupt service and create settlement risk. From a regulatory standpoint, continuing to hold US securities without proper tax documentation could breach HL's obligations under FATCA (Foreign Account Tax Compliance Act) and even compromise HL's standing with their US counterparts and tax authorities.

So, I've gone on to consider whether HL did enough to alert Mr E to the fact that his existing W-8BEN form was about to expire. From what I've seen, there's no dispute that Mr E was trading as an execution only client – this meant HL is not responsible for advising him or managing his positions. He alone is responsible for deciding how much money to deposit, when to open trades and on what markets, monitoring those positions, and when to close them. In short, this means it's up to Mr E to keep abreast of what's going on within his account and checking to ensure that everything remains up to date.

There doesn't seem to be any dispute that HL contacted Mr E on at least five separate occasions to forewarn him that they needed a new W-8BEN; they added secure messages to his app and sent him emails that referenced the time-critical nature of those messages. A banner was also added to the website to bring it to his attention when he logged in. However, Mr E says that he thought HL's emails were simply their normal news messages and didn't read them and because he'd not logged into his online account for some time, he didn't see the banner - however, that's not HL's fault. HL have been able to show that Mr E's communication preferences were set to paperless throughout the duration of the digital messages that were sent, so I can't conclude that they've treated him unfairly for communicating with him in the manner that he'd asked them to but in any event, as an execution only customer, the onus is on Mr E to keep abreast of what is happening on his account.

Whilst I'm satisfied that HL's messages were clear about the impact of not updating the W-8BEN, having looked at their terms and conditions which Mr E would've agreed to when he opened an account with HL, I'm also content that they make clear the consequences of not submitting the W-8BEN in a timely manner:

“A14: You must sign the appropriate US Internal Revenue Service form (which we will supply on request) and submit it to us before we accept a trade from you for securities listed in the US. If you have not previously provided us with a valid form, and you already hold US securities, you must complete a form. If you do not submit the form before the date we specify (usually 30 days), we reserve the right to sell US securities held in your Account.”

From what I've seen of HL's website, it also explains why a W-8BEN is required along with the fact that it must be renewed every three years. In light of the HL's communications to Mr E, I can't reasonably conclude that they didn't do enough to inform him of the expiring form. And, as I've already explained, HL are well within their rights to take proactive steps which includes selling affected US holdings when a W-8BEN form expires and isn't renewed in a timely manner.

For completeness, I will comment on Mr E's point that he didn't receive a contract note following the sale. HL have provided a contract note to this service showing the sale of the 337 CBRE shares for £23,000. I well suspect that details of the transaction would be readily available in Mr E's online transaction history within the HL app, but in any event, as I've not seen any evidence to suggest that this wasn't generated or issued, I don't believe HL have done anything wrong on this specific point either.

My final decision

I'm not upholding Mr E's complaint and as such, I am not instructing Hargreaves Lansdown Asset Management Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 25 November 2025.

Simon Fox
Ombudsman