DRN-5751997

The complaint

Mr M and Mrs P complains that Hargreaves Lansdown Asset Management Limited ("HL") unfairly prevented them from investing in US shares on its platform.

What happened

In November 2023, HL contacted Mr M and Mrs P to request they renew their W-8BEN forms, which establishes that an investor is a non-US taxpayer who has received US-sourced income. HL said they needed to complete these before 31 December 2023 as the forms are only valid for three years.

In December 2023, Mr M and Mrs P made HL aware that they wouldn't be adding a country on the form, due to them being residents of the British Virgin Islands ("BVI"). Mr M and Mrs P completed and submitted the forms in November 2023 and again in December 2023, but these were rejected by HL due to a country not being added to the form, despite Mr M and Mrs P explaining that they'd completed these previously without stipulating a country.

Mr M and Mr P contacted HL on several occasions, explaining that since BVI are not a part of any tax treaty and have their own tax authority, completing the forms could have possible legal implications. At that time, Mr M and Mrs P were promised that information would be added to their account, to prevent their US shares from being sold.

Mr M and Mrs P were able to trade in US shares until March 2024, when a buy order for some Iron Mountain Inc shares was unexpectedly rejected.

Mr M and Mrs P raised a complaint with HL in March 2024 as they were unhappy that their buy order was rejected.

HL considered the complaint and upheld it in June 2024. In summary, it said all restrictions on trading US shares had been lifted given the lack of tax treaty between the US and BVI. It also apologised for incorrectly requiring Mr M and Mrs P to complete a W-8BEN form and paid £200 into their nominated bank account to recognise any distress and inconvenience caused.

Mr M and Mrs P remained unhappy and continued to be in contact with HL regarding their complaint. In response, HL offered in a total of £400 compensation and, in August 2024, backdated their trades in Iron Mountain Inc that were delayed due to the restrictions. HL also organised for an extra unit of Iron Mountain Inc to be purchased on Mr P and Mrs M's behalf under the same conditions as the previous trades which was completed on 9 August 2024. Furthermore, HL also requested for the two dividends paid since the 8 March, to be credited to Mr M and Mrs P's account which was completed on 29 August 2024.

Mr M and Mrs P remained unhappy as they felt HL had unfairly prevented them from making additional trades in US shares which they intended to make during the period the restrictions were in place. They also said that Mr M's health had been impacted by the stress caused by having to contact HL during this period and so felt the award of compensation should be increased. And so they referred their complaint to this service for an independent review.

One of our investigators considered the complaint but didn't uphold it. In summary, they felt HL recognised its error and has put Mr M and Mrs P back in the position they would have been in had they not had the account unfairly restricted. They felt they hadn't been provided with any evidence to show Mr M and Mrs P suffered any further financial loss due to the restriction. However, they felt the offer for the distress and inconvenience caused should be increased from £400 to £700.

Mr M and Mrs P didn't accept the investigator's findings. In summary, they said they had been prevented from purchasing further US shares during the period the restrictions were in place. They said they usually spend around £1,000 on new shares.

They also felt that an award of £1,400 for the distress and inconvenience caused would be fairer compensation, taking account Mrs P having to support Mr M's stress and ill-health in the face of HL's actions. They felt this level of award would also recognise that Mr M has not being able to fully enjoy his investing hobby, and the issues have diverted his attention from supporting Mrs P's business interests.

As Mr M and Mrs P remained unhappy, the complaint has been passed to me to decide.

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.

HL accepts that it caused the errors complained about and so my decision will focus solely on whether it's offer is fair.

When our service looks to resolve a complaint where a firm has caused an error, we look to put the consumer back in the position they would have been in but for the error. In Mr M and Mrs P's case, HL believes that it has done exactly that by backdating the trades, adding the addition units which were blocked due to it incorrectly putting restrictions on the account, as well as crediting the account with the missed dividend payments Mr M and Mrs P would have been entitled to had the trades gone through.

However, Mr M and Mrs P believe that HL's error has also caused additional direct financial losses in relation to missed opportunities to trade in further US shares during the period the restrictions were in place. Mr M and Mrs P has explained to this service that they usually plan their next ten trades at the beginning of each month and monitor the progress two or three times a week. They say this continued until HL stopped them from buying US shares, so they were forced to reinvest the proceeds from sales of poorly performing US shares in other markets.

I've thought carefully about this, however, I don't think Mr M and Mrs P has evidenced a quantifiable financial loss for which I can make an award for. I say this as Mr M and Mrs P haven't specified which shares they intended to purchase during the period the restriction was in place and so it's difficult to say with any certainty, and without the benefit of hindsight, which shares they would have purchased and whether they have missed out on any investment growth. Furthermore, I understand that Mr M and Mrs P were able to purchase non-US shares during the restriction, which they did, and so they were able to potentially mitigate any losses. It's also possible that the non-US shares they purchased have now outperformed the US shares they intended to purchase and so I'm not in a position to be able to quantify any potential investment growth loss.

I've only seen evidence of Mr M and Mrs P's intention to purchase shares in Iron Mountain

Inc and I'm satisfied HL has put them back in the position they would have been in had the trade been placed when it was first placed with HL. As such, I'm not persuaded HL needs to do anything further in respect of a direct financial loss.

Turning to the award for distress and inconvenience, I understand Mr M and Mrs P feel that the award of £700 should be doubled to account for Mrs P having to support Mr M's stress and ill-health in the face of HL's actions. I'm sorry to hear about Mr M's ill-health and I appreciate that dealing with this complaint has impacted this. Clearly, HL's error has caused considerable distress, and the impact has lasted over several months. I appreciate Mr M and Mrs P feel this should be doubled, however, I want to assure Mr M and Mrs P that I've considered the impact this has had on both of them and having done so, I'm satisfied the award of £700 the investigator has suggested is fair and reasonable in all the circumstances.

Putting things right

HL should pay Mr M and Mrs P £700 for the distress and inconvenience caused. HL can deduct the £200 it originally offered if this has already been paid.

My final decision

My final decision is that I uphold this complaint and direct Hargreaves Lansdown Asset Management Limited to pay Mr M and Mrs P the compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs P to accept or reject my decision before 10 September 2025.

Ben Waites
Ombudsman