

The complaint

Miss B complains that Trading 212 UK Limited ('T212') sent her a marketing email after unsubscribing from promotional messages. In addition, she's also unhappy that T212 placed a closure notice on her account following her complaint to them.

Miss B would now like T212 to recompense her for the upset caused and remove the restrictions from her trading account.

What happened

Miss B has a dealing account with T212 which she used to previously trade on, on an active basis. Following the lockdown, Miss B paused her trading due to personal issues and opted out of receiving T212's marketing messages.

In August 2024, T212 sent Miss B a 'Last week's hottest stocks on Trading 212' email. As Miss B had previously opted out of receiving marketing messages, she contacted their customer support team. T212 initially explained to Miss B that opting out of receiving marketing messages was only possible if she closed her account.

After Miss B questioned this further, a senior T212 customer support team member explained that marketing messages had been disabled at their end. To say sorry for the incorrect information that Miss B had been told, the representative explained that they were going to give her in an in-app credit of £50 to use on any trade of her choice.

As Miss B expressed dissatisfaction during the interactions, T212 treated her comments as a complaint. In summary, Miss B set out that:

- She was unhappy that she'd received a marketing email from them.
- There was no unsubscribe button in their emails.
- The initial explanation that their 'hot stocks' email is one of the ones that can't be disabled due to their terms didn't seem right.

After reviewing Miss B's complaint, T212 concluded that their representative shouldn't have informed her that marketing emails couldn't be switched off and upheld her complaint. They also explained that their initial gesture of goodwill brought the matter to a close.

Following T212's complaint resolution letter, Miss B contacted them to explain that she didn't want to log into their platform to spend the in-app credit because she'd made a conscious decision to not actively trade anymore. Miss B went on to explain that having suffered significant losses previously, she was abstaining from trading to protect her mental health.

In response, T212 apologised for the apparent insensitivity of the previous offer and in light of that, explained they wanted to send £100 as a gesture of goodwill to conclude matters.

They went on to say that in light of the comments that she'd made, they had no desire to put her in harm's way, so it felt reasonable to put a close out on her account.

Miss B explained to T212 that she didn't want her account closing as it would turn paper losses into actual losses and that they'd triggered her emotionally as a consequence. In response, T212 said that the terms of her account permitted them to prevent all further trading if they considered it appropriate to do so and they were applying the restriction for her own benefit. T212 went on to say that they wouldn't close the account but would allow her to close her positions when she felt ready. After further challenge from Miss B, T212 agreed to remove the restrictions and not close the account.

Miss B was unhappy with T212's response, so she referred her complaint to this service. In summary, she said:

- She was unhappy that they'd sent her marketing emails when she'd specifically opted out of receiving such messages.
- The 'unsubscribe' button on the email that she'd been sent didn't work. Miss B explained that when she pressed the button, it took her to the app store to download the T212 app rather than allowing her to just opt out of marketing messages.
- She didn't think it was fair or reasonable that T212 had put a close out on her account, preventing her from managing her existing holdings when she saw fit.

The complaint was then considered by one of our Investigators. He concluded that T212 had done enough to put things right for Miss B. He also said:

- It's likely that there was a system error that caused T212's marketing email to be sent to her.
- The 'unsubscribe' button on T212's email should've worked as expected and he'd seen nothing to the contrary that demonstrated it didn't.
- T212 had lifted the trading restrictions on the account.

Miss B, however, disagreed with our Investigator's findings. In summary, she said:

- T212 had mishandled the information that she'd given to them about her mental health, as result further triggering her anxiety and depression.
- The £100 that T212 had offered didn't go far enough to put things right for her. In addition, she felt that their action of offering her an in-app credit forcing her to start trading again was wholly inappropriate.
- T212's terms didn't permit them to put a block on her account as in her opinion, it didn't meet the threshold of clause 6.8 – restrictions on reasonable grounds. The enforcement of that policy on her account contradicted her right to manage her own monies in the manner that she saw fit.
- The response to her original complaint took too long.
- Their complaint response failed to address the core issue of her concerns. The response lacked transparency and was inconsistent.

To put matters right, Miss B said that T212's resolution should be better aligned with the Financial Conduct Authority's Consumer Duty guidelines.

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

After carefully considering both sets of submissions, I explained to both parties that I was minded to reach a different outcome to that of our Investigator and uphold the consumer's complaint. I then issued a provisional decision which explained my reasons why and gave both parties the opportunity to provide any additional evidence that they wished for me to consider before I reached a final decision.

What I said in my provisional decision:

I have summarised this complaint in less detail than Miss B 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 Miss B and T212 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 planning on upholding Miss B's complaint - I'll explain why below.

With the advance of technology, many financial services businesses are shifting their communication approach to electronic mail – that's because, it's usually quicker and cheaper than sending letters through the post. When a firm communicates with their consumers through email, there's typically a number of motivations for doing so – for example highlighting account-specific news that they need to be aware of, such as changes to terms and conditions or signposting account statements and letters that have become available online that they should consider reviewing. And, one of the more common drivers for firms sending emails to their clients is for direct marketing, to promote new products, offers or benefits that the customer may wish to sign up to.

However, there's an important distinction to be made between the two types of messages. When a consumer signs up with a firm that offers online services, they typically agree that the business can send them details of changes to account terms and conditions via email, even if the customer has opted out of receiving marketing messages. That's because, emails signposting changes to terms or encouraging customers to check their statements aren't considered as marketing messages. And, we'd ordinarily consider such messages as being reasonable to send during the course of a business relationship even if the customer had opted out of receiving emails. But, where a consumer has actively opted out of receiving marketing emails, if a firm continued to send messages of a promotional nature after they'd been asked to stop, we'd consider that action as unreasonable.

I've read very carefully what Miss B has told this service about her personal circumstances and I'm choosing not to repeat much of that information here; however, I will provide a very brief overview because it is relevant to the complaint and provides important context to why I've reached the decision I have. During lockdown, Miss B says that she suffered large financial losses as a result of her trading on T212's platform and that resulted in her suffering significant mental health issues that necessitated her needing to seek professional help. Part of her recovery strategy included abstaining from trading, so she asked T212 to stop sending her marketing emails and ceased logging into their platform. So, I can well imagine how upset Miss B was when she received T212's email about 'Hot Stocks'. I've looked closely at that message and there's no doubt it's a marketing email which shouldn't have been sent to her given she'd previously opted out of receiving such messages. In sending Miss B that email, she says that T212 have caused her significant anxiety and distress, something which she'd previously worked hard to get under control.

After some confusion, it seems that T212 recognised that they shouldn't have sent Miss B the 'Hot Stocks' email because they apologised and offered her an in-app credit. Whilst I think T212's efforts were well-intended, I'm of the opinion their response was clumsy in light of Miss B's specific circumstances and what she'd previously told them.

Whilst T212 have since acknowledged that an in-app credit wasn't appropriate and offered her £100 to apologise, I don't think it goes far enough when I consider it against Miss B's specific circumstances and the impact that T212's email had, which then created the chain of events that then followed, exacerbating the situation for her.

Miss B says that T212 unfairly restricted her account and placed it on a close out when they learned of her mental health issues. T212 explained that they had no desire to put her in harm's way, so it felt reasonable to close her account. Miss B told T212 that in placing the block on her account, they'd triggered her anxiety further because it meant she'd crystallise, what was then, only a paper loss.

Given what Miss B told T212 about her mental health, I don't think that they acted unreasonably by categorising her as a vulnerable customer – and I well suspect the regulator, the Financial Conduct Authority, would've expected them to do so in the circumstances. Categorising a consumer as vulnerable means that a firm has to take a heightened level of care with that client to ensure their services result in fair treatment and outcomes equivalent to other customers.

I've looked at how T212 positioned they were closing out Miss B's account after she shared her mental health challenges to them. On 29 October 2024, T212's customer services assistant wrote:

"In light of your comments, we believe that it would be appropriate to close your account as we have no desire or intention to put you in harms way. We have restricted your account but this would appear to be the most logical option we will now move to do this."

I do think T212's intentions were well meaning, particularly in light of the fact that Miss B said she didn't wish to risk any further funds. However, I think the way that T212 framed the close out could've been positioned more sensitively. For example, they could have set out the regulator's expectations around how vulnerable clients should be treated and why they were categorising her as such; they could have provided more context around their decision to place her account on a close out, what a close out meant in practice – for example what she could and couldn't do under the circumstances, the timeframes around it and what she could do if she didn't agree with that decision (this isn't an exhaustive list).

So, whilst I can't conclude that T212's intentions were misguided when they put a restriction on Miss B's account, the manner in which they did so lacked care. I understand that T212 have since lifted all restrictions on the account.

Miss B says that T212 make it difficult for customers to unsubscribe from their emails. I've reviewed the video that Miss B sent in showing that users aren't able to simply click on the 'unsubscribe' button within T212's emails without it directing them to the app. It therefore appears that despite what T212 say, should a consumer wish to opt out of receiving marketing messages, they have to do so via their app. I appreciate that Miss B removed the app from her phone as she wished to avoid trading again, but I can't conclude that T212 have done anything wrong by directing customers to their app so their marketing preferences can be captured. Whilst I think in Miss B's circumstances, it would've been beneficial to have that option available outside the app, that's an operational decision for T212 to make. The important element here is that when a consumer wishes to opt out, they're able to do so. And it seems that feature is available, despite having to go through the app, which is contrary to what T212 told Miss B.

Miss B has explained that she'd like this service to investigate T212's compliance with data protection and fair treatment standards, ensuring that corrective measures are implemented for all their customers. I think it's important to be clear about the remit of this service – we're not here to oversee or punish businesses, that's the responsibility of the regulator, the Financial Conduct Authority (FCA). Our role is to investigate individual complaints between a consumer and a firm, so we wouldn't ordinarily tell a business how it should manage its data protection responsibilities or manage the treatment of its customers on a day-to-day basis, that's an operational decision for them to make.

For most consumers, an unwanted marketing email is nothing more than a very minor inconvenience in our day. But for others facing significant mental health struggles, a message about the ease of investing into stocks that have achieved significant returns is likely to be triggering. So, it's for good reason that rules are in place to allow consumers to opt out of receiving such literature. In light of the chain of events above, I'm therefore going to ask T212 to increase their offer to Miss B for the trouble and upset that their actions have caused from £100 to £450. I'm of the view that the increased amount better reflects the impact that their actions have had on Miss B.

For the reasons above, it therefore follows that I'm planning on upholding Miss B's complaint.

Putting things right

I require T212 to pay Miss B £450. I'm satisfied that amount is fair and reasonable in all of the circumstances.

Responses to my provisional decision:

Having considered what I had to say, Miss B provided her thanks and explained that she had nothing further to add.

T212 did not provide any further comment.

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.

As I've not been provided with any new information or evidence that's made me change my mind, it therefore follows that I've reached the same conclusions for the same reasons that I set out above.

My final decision

I'm upholding Miss B's complaint and require Trading 212 UK Limited to put things right for her in the manner that I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 14 September 2025.

Simon Fox
Ombudsman