

The complaint

Mrs S complains that Freetrade Limited didn't credit her account with the loan notes she should have received following a corporate action.

What happened

The background to this complaint was set out in my provisional decision dated 28 January which I'll reproduce here:

Mrs S has an execution only stocks and shares account with Freetrade. She held 737 shares in a company that I'll refer to as "IPEL". In 2024, IPEL was acquired by another company I'll refer to as "HV". Under the terms of the scheme of arrangement, Mrs S was due to receive cash, shares and loan notes. She said her account was credited with the cash and shares but, in September 2024, she contacted Freetrade as she realised she hadn't received the loan notes.

Freetrade said it couldn't credit the loan notes to Mrs S's account because:

- The loan notes aren't tradeable.
- The loan notes were issued in certificated form. Its platform doesn't support share certificates.
- Freetrade doesn't have access to the Guernsey stock exchange where the loan notes are listed.
- It didn't receive any certificates in relation to the loan notes.

Mrs S referred her complaint to us. She said she wanted Freetrade to pay her the fair market value for the loan notes which should have been credited to her ISA, together with loss of interest, compensation for the distress and inconvenience caused, a letter of apology, and amendments made to Freetrade's website, terms, and other communications to make it clear that Freetrade's operational limitations can result in financial losses.

Our investigator didn't recommend that the complaint should be upheld. Mrs S didn't agree, so the complaint was passed to me.

My provisional decision

I was minded to uphold the complaint and I explained why. I said:

Before going any further, it's important to clarify that the ombudsman service isn't the industry regulator. That means we don't set the rules for financial businesses or police the industry to make sure those rules are followed. And we don't have the power to fine or punish businesses. These are all issues dealt with by the regulator, the Financial Conduct Authority (FCA). So I can't order Freetrade to change its terms, website or other communications as Mrs S would like. My role is instead to consider this individual dispute and reach an outcome I think is fair and reasonable in the particular circumstances.

Freetrade's terms and conditions set out its obligations for corporate actions. Amongst other things, the terms say:

21.2.1. Freetrade and its sub-custodians have no duty to inform you of any corporate actions related to the Investments in your Freetrade Account(s);

I don't think this is unreasonable, bearing in mind Mrs S had an execution only account – she was responsible for keeping up to date with her investments. So don't find there was any obligation on Freetrade to tell Mrs S about the takeover of IPEL.

The terms go on to say:

21.4. If you become entitled to any proceeds (such as dividends) or non-monetary benefits (such as additional Investments) as a result of any corporate action in relation to the Investments in your Freetrade Account(s), we'll take all reasonable steps to collect such proceeds or benefits and credit your Freetrade Account(s) accordingly.

Under the terms of the scheme of arrangement, Mrs S was due to receive cash and shares, which she tells us she has received. And she was due loan notes. She's told us what she thinks she was due to receive, although this doesn't seem to reflect the scheme of arrangement which says that for every share held she would receive:

£2.582 in non-convertible loan notes;
£0.673 in fixed rate convertible loan notes ("tranche A");
£0.673 in variable fixed rate extendable convertible loan notes ("tranche B")

If either party disagree with this, and has evidence that Mrs S was due to receive something different, they should let me know in response to this provisional decision.

Mrs S didn't have to give any instruction or exercise the corporate action to receive her entitlement; it was what she was automatically due under the terms of the scheme of arrangement because she held shares in IPEL. And, in line with clause 21.4 quoted above, I find Freetrade should have taken "*all reasonable steps*" to ensure Mrs S received her entitlement. I've not seen evidence that it took these steps.

Freetrade said it didn't receive any loan note certificates. But, according to the company's announcement on 15 April 2024, certificates were sent by first class post on 2 April 2024 to "*shareholders on [IPEL's] register of members...*". So the certificates should have been sent to Freetrade's custodian. I would have expected Freetrade to liaise with its custodian to ensure safe receipt of the certificates.

In any event, as IPEL and HV explained in the frequently asked questions section of its website that, "*The Certificates do not constitute the security and are not a document of title. Each Certificate is merely evidence that a legal Noteholder's name has been added to the Register.*" So Freetrade is the legal owner of the loan notes and holds them on behalf of the beneficial owner(s) – in this case Mrs S. The register is held by the company, so Freetrade should be able to confirm it is the legal owner of the loan notes by contacting the company.

Freetrade told us that it couldn't credit Mrs S's account with the loan notes because:

- They weren't tradeable.
- They weren't held in CREST, so couldn't be transferred to another broker.

- Freetrade doesn't handle physical certificates.

And, whilst Freetrade acknowledges Mrs S missed out, it says this is covered by its terms and conditions which say:

21.2.3. you agree that we or the legal holder of your Investments may exercise (or not exercise) any corporate actions at its discretion. That discretion will not take into account your individual wishes or circumstances, and whether and how those rights are exercised may not result in your preferred outcome.

But, as noted earlier, there wasn't anything to choose to exercise with this corporate action. It was simply that cash, shares and loan notes were issued in lieu of the existing shareholding. I can't comment on how Freetrade operates. But it says its platform doesn't handle physical certificates. I accept that the loan notes can't be held on Freetrade's platform. So they can't be credited to Mrs S's stocks and shares ISA account.

This doesn't mean Mrs S should miss out on what she is entitled to receive. I would expect Freetrade to be mindful of the FCA's Consumer Duty Principle which requires Freetrade to "*act to deliver good outcomes for retail customers*". And I consider a good outcome here would be for Freetrade to ensure that Mrs S receives her entitlement.

And I set out what I thought Freetrade needed to do to put things right. I said:

I understand that Mrs S was due to receive:

£1,902 in non-convertible loan notes;
£496 in fixed rate convertible loan notes ("tranche A");
£496 in variable fixed rate extendable convertible loan notes ("tranche B")

As noted earlier, if either party disagrees with this, they should provide evidence to show what they think Mrs S should have received.

Freetrade should put Mrs S back in the position she'd be in now if she'd received the loan notes that she should have by compensating her as follows:

1. The non-convertible loan notes
 - a. Freetrade should arrange to transfer the ownership of these loan notes into the name of Mrs S. It should be able to do this by contacting the company registrar and instructing it to issue a certificate in Mrs S's name and to update its register to show her as legal owner.
 - b. Freetrade should pay Mrs S the interest she was due to receive on these loan notes from the date of issue, 4 April 2024, to the date the loan notes are transferred to her.
 - c. As Mrs S didn't receive this interest when she should have and has been without the money, Freetrade should pay interest on this amount at 8% simple per annum from the date she should have received the loan note interest to the date of settlement. *
2. Convertible loan notes, "tranche A"

- a. These loan notes matured on 2 August 2025 and were converted into class A ordinary shares and class A preference shares. Freetrade should arrange to transfer Mrs S's entitlement of these ordinary and preference shares into her name. Again, it should be able to do this by contacting the company registrar and instructing it to issue certificates in Mrs S's name and updating its register to show her as legal owner.
 - b. Freetrade should pay Mrs S the interest she was due to receive on these loan notes from the date of issue, 4 April 2024, to the date of conversion, 2 August 2025.
 - c. If the ordinary and preference shares have paid any dividends, Freetrade should pay the amounts due to Mrs S.
 - d. As Mrs S didn't receive the interest and dividend payments when she should have, she's been without this money. Freetrade should pay interest on each loan note interest payment and each share dividend payment at 8% simple per annum from the date she should have received the interest or dividend payment, to the date of settlement. *
3. Convertible loan notes, "tranche B"
- a. These loan notes redeemed on 2 May 2024 and holders received £1.0834 for each £1 in principle amount of loan notes held. So Mrs S should have received £537.37. Freetrade should pay that amount to Mrs S now, plus interest at 8% simple per annum from 2 May 2024 to the date of settlement. *
 - b. Freetrade should pay Mrs S the interest she was due to receive on the loan notes from the date of issue, 4 April 2024 to the date the loan notes were redeemed, 2 May 2024.
 - c. As Mrs S didn't receive this interest when she should have and has been without the money, Freetrade should pay interest on this amount at 8% simple per annum from the date she should have received the loan note interest to the date of settlement. *
4. Freetrade should pay Mrs S £150 to reflect the distress and inconvenience it's caused by failing to transfer the loan notes into her name, as beneficial owner, when they were issued.

Responses to my provisional decision

Mrs S agreed with my provisional decision.

Freetrade said it accepted that Mrs S was due to receive her entitlement following the acquisition of IPEL. But that it hadn't received any certificates or payments from IPEL, so was communicating with it to try to resolve the matter. It made some comments on what I'd said it would need to do to put things right. It said, in summary:

1. Non-convertible loan notes

- It doesn't support the registering of certificates into shareholders' own names. It will hold the certificate in its nominee name and will pay any entitlements to Mrs S.

- Mrs S isn't due any interest on the non-convertible loan notes as it is only payable on redemption of the loan notes.

2. Tranche A convertible loan notes

It agrees Mrs S is entitled to receive ordinary and preference shares, but these haven't yet been received. It is communicating with IPEL about any interest due.

3. Tranche B convertible loan notes

It agrees Mrs S is due to receive £537.36 in cash, but it hasn't received this payment, or certificates for any new shares, from the company. It agreed to compensate Mrs S with the interest she would have received over this period.

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.

Fretrade has now recognised that Mrs S is entitled to receive something following the acquisition of IPEL. It hasn't received that entitlement from IPEL and it is now communicating with its investor services department to resolve the matter.

I've reconsidered what I think Fretrade needs to do to put things right, taking into account its response to my provisional decision.

Non-convertible loan notes

I had said that Fretrade needed to issue a certificate for the loan notes in Mrs S's name, pay the interest she should have received on the loan notes, plus interest at 8%.

Fretrade says it can't register the certificate in Mrs S's name. But it can hold it in its nominee's name on Mrs S's behalf. I think this is reasonable, and the outcome Mrs S had requested.

Fretrade is communicating with IPEL to obtain the certificate and will then reflect the loan notes in Mrs S's account.

Fretrade is correct in saying that no interest has been paid on these loan notes. Although they attract interest at 17% per annum, this is accrued and payable when the loan notes are redeemed. So Mrs S hasn't missed out on any interest payments as I suggested in my provisional decision. The interest will be paid and credited to her account when the loan notes are redeemed.

Tranche A convertible loan notes and Tranche B convertible loan notes

Fretrade agrees that Mrs S is due to receive ordinary and preference shares and cash of £537.36. It says the shares and cash will be credited to her account, together with the interest and dividend payments she's missed, once the shares and cash have been received from IPEL.

Fretrade only got in touch with IPEL's investor services department after it received my provisional decision. It should have started communicating with it much earlier – when it

didn't receive the loan note certificates which it knew should have been sent to it by first class post on 2 April 2024. For this reason, I don't think it's fair that Mrs S should have to continue to wait for receipt of the cash. Freetrade should credit her account with the amount she should have received when the tranche B loan notes were redeemed.

It can't credit her account with the loan notes or the ordinary and preference shares until these are received from the company. (Freetrade can't acquire the shares for Mrs S by any other means as they are not tradeable on an exchange). Freetrade should act with urgency to ensure the continuing delay is minimised. I'm satisfied that the loan notes and shares are, and continue to be, untradeable, so I don't find the continuing delay is a loss-making situation for Mrs S (with the exception of the interest and possible dividends she hasn't received – but Freetrade is required to pay interest on the late payments).

Putting things right

Mrs S should have received:

- £1,902 in non-convertible loan notes;
- £496 in fixed rate convertible loan notes ("tranche A");
- £496 in variable fixed rate extendable convertible loan notes ("tranche B")

Freetrade should put Mrs S back in the position she'd be in now if she'd received the loan notes that she should have by compensating her as follows:

1. The non-convertible loan notes

Freetrade should arrange receipt of the loan note certificate which was sent to it on 2 April 2024 and reflect this in Mrs S's account.

2. Convertible loan notes, "tranche A"

- a. These loan notes matured on 2 August 2025 and were converted into class A ordinary shares and class A preference shares. Freetrade should arrange receipt of these ordinary and preference shares and credit Mrs S's account.
- b. Freetrade should credit Mrs S the interest which was accrued and paid on the loan notes when they matured.
- c. If the ordinary and preference shares have paid any dividends, Freetrade should pay the amounts due to Mrs S.
- d. As Mrs S didn't receive the interest and dividend payments when she should have, she's been without this money. Freetrade should pay interest on the loan note interest payment and each share dividend payment at 8% simple per annum from the date she should have received the interest or dividend payment, to the date of settlement. *

3. Convertible loan notes, "tranche B"

- a. These loan notes redeemed on 2 May 2024 and holders received £1.0834 for each £1 in principle amount of loan notes held. So Mrs S should have received £537.37. Freetrade should pay that amount to Mrs S now, plus interest at 8% simple per annum from 2 May 2024 to the date of settlement. *
- b. If any ordinary or preference shares were also due, as Freetrade suggests, Freetrade

should arrange receipt of these shares and credit Mrs S's account.

- c. Freetrade should credit Mrs S the interest which was accrued and paid on the loan notes when they matured.
 - d. If the ordinary and preference shares have paid any dividends, Freetrade should pay the amounts due to Mrs S.
 - e. As Mrs S didn't receive the interest and dividend payments when she should have, she's been without this money. Freetrade should pay interest on the loan note interest payment and each share dividend payment at 8% simple per annum from the date she should have received the interest or dividend payment, to the date of settlement. *
4. Freetrade should pay Mrs S £150 to reflect the distress and inconvenience it's caused by failing to credit Mrs S's account with the loan notes she was entitled to when they were issued

* HM Revenue & Customs requires Freetrade Limited to take off tax from this interest. Freetrade Limited must give Mrs S a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I uphold this complaint. Freetrade Limited should pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 31 March 2026.

Elizabeth Dawes
Ombudsman