

complaint

Mr W complains that TD Direct Investing (Europe) Limited ("TDDI") didn't notify him of the changes it was making. Specifically that he would no longer be able trade US Over-the-Counter (OTC) or US low-priced securities stock using its platform.

background

Mr W has an account with TDDI – he uses its platform for share dealing. In March 2017, TDDI says it sent out a notification to all its users to say it's reviewed its share dealing service and has made some changes. It said that from 13 April 2017 it would no longer permit purchases of US OTC stocks. It also said it would only be able to hold US low-priced securities until 15 September 2017. Mr W says he didn't receive this.

Mr W contacted TDDI in July 2017 after seeing that his US OTC stock (and US low-priced securities) price wasn't matching with what he was seeing elsewhere. When he queried this, he was informed of the changes. At this point he was only left with two months before TDDI would no longer hold his US OTC stock. He said he'd then missed out on selling his holdings for a better price.

Mr W complained that he'd never received the notification. He explained that he almost exclusively used the mobile application ("app") to use the TDDI platform and that no notification came up on his app. TDDI explained that the app doesn't show the notifications and Mr W would've had to have logged in via the website to see the document. It also explained that it had emailed him notification of the changes as he'd set his communication preferences to email. It said it couldn't do anything about its decision to stop trading in US OTC stock – and that it hadn't done anything wrong in communicating the changes to him.

Our investigator didn't think the complaint should be upheld. She explained that the terms of the TDDI app explain that it should be used in conjunction with the website – and that it was Mr W's responsibility to log in and check for updates. She also said she thought TDDI could've done more, but that it hadn't treated Mr W unfairly as it had notified him in the way that it would usually notify him.

Mr W disagreed with the investigator and sent in a number of points to explain why he disagreed. To summarise he said:

- If the app doesn't alert him to check the website then why would he feel he needed to. He was never alerted that he needed to log on to the TDDI website so couldn't have known that the changes were going ahead.
- He only ever received one email before he complained but after this he received 22. This shows TDDI only switched on his notifications after his complaint which proves that the notification wasn't sent to him.
- There's no evidence that he was ever sent an email notifying him to check his online account.
- The terms and conditions of the app are dated after he had downloaded the app and after the notification was sent – so don't apply here.

Mr W asked for an ombudsman to review the complaint and make a decision – so it's been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I won't be upholding this complaint.

Mr W has raised several detailed points about how TDDI has acted unfairly. Although I've considered everything Mr W has said, I don't intend to address each point individually – instead I shall deal with the crux of the complaint here which is whether TDDI did enough to notify Mr W of the changes it was making about trading US OTC stocks. I think that it did.

TDDI says that it sent out an email to Mr W in March 2017 alerting him to the changes it was making. Mr W has said that there's no evidence to show the email was sent so it's clear that it wasn't. The test I need to apply here is whether I think, on balance, TDDI sent out this email. I think it's clear that Mr W didn't see this email, but that isn't to say TDDI didn't do what it was supposed to. These types of communications are sent out in bulk, and so there's usually a distribution list to which they are sent to. TDDI has shown us the distribution list which confirms it had Mr W's correct email address on there. So I think it's likely the email was sent to him. It isn't TDDI's fault if this email didn't reach Mr W – it might have been the case that it was filtered into his junk or spam folder. But I do think it's more likely that it was sent.

Mr W complains that the TDDI app doesn't show him notifications of new documents – and TDDI has said that Mr W would have to log in to the website to see new documents uploaded. I can see why Mr W is frustrated with this. He exclusively used the app to manage his TDDI account so it would be useful for all the information he requires to be available on the app. However, this doesn't mean that TDDI has treated him unfairly. Whilst it would be useful to have the document function on the app, TDDI isn't obliged to have an app that mirrors the website. By their very nature apps are designed to be stripped down, lighter versions of the website content.

Mr W has made some relevant points about the terms and conditions of the app – and how the copy provided is dated after he'd downloaded the app and after the notification had been sent. But regardless of the terms of the app, it's not our role to tell TDDI how its app should operate or be developed. Instead, I need to decide whether TDDI acted fairly in the way it communicated the changes to Mr W and I feel that it did. And I've not seen anything to suggest Mr W was told the app could be used entirely as a replacement to the website.

Mr W has access to the internet and to his online account – where he could've viewed document outlining the changes. I also think it's likely TDDI did send him an email notification about it. Mr W asked to be communicated with via email and so I think it did enough here to notify him of these changes. It's unfortunate that as Mr W wasn't actually aware, he lost two months of opportunity to sell his US OTC stock at a higher price. But I can't see that TDDI has been unreasonable in the way it communicated the changes to Mr W. So I won't be upholding this complaint.

my final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 January 2018.

Charlotte Wilson
ombudsman