

The complaint

Mr Y complained about eToro (UK) Ltd. He said it restricted and then closed his trading account, so he wasn't able to make any new trades. He said he has been stopped from being able to recoup his losses. He would like eToro to reopen his account so he can continue trading.

What happened

Mr Y opened a trading account with eToro in 2021 and traded in Contracts for Difference (CFD) along with cryptoassets.

Mr Y called eToro on 1 May 2023, to complain about rewards that he felt he should receive in relation to his trading in cryptoassets. This part of Mr Y's complaint has been looked at separately by our service.

During the call Mr Y made on 1 May 2023, he also raised with the representative from eToro that he had made losses and asked if it would help compensate him for this, as he wanted to use his savings to purchase a property. He also informed eToro that his employment was coming to an end.

Following the call, eToro took the decision to restrict Mr Y's account so he couldn't make any new trades and could only manage his existing positions. Mr Y was not happy about this and complained to eToro about it restricting his account. He said it should lift the restrictions and allow him to trade, so that he could recoup his losses.

eToro carried out a review and decided that the restrictions would remain and that it would close Mr Y's account once he had closed all his existing positions. It said it didn't think it was in Mr Y's best interests for it to provide its services to him. It said it thought it was more likely Mr Y would experience detrimental outcomes, so in accordance with 26.4 (a) of its terms and conditions, it took the decision to close his account. It said it is able to take the action it has and gave a reason that Mr Y mentioned he wanted to use his funds for buying a property, so it said, it took action to protect Mr Y from making further losses.

Mr Y was not happy with eToro's response and referred his complaint to our service.

An investigator looked into Mr Y's complaint and sent out her first view in June 2023. She concluded from what she had read it was not wrong to take the action it had, but she felt the account was not appropriate for Mr Y in the first place. She said this was based on the answers she could see Mr Y gave at the time. She said eToro shouldn't have deemed the account was appropriate and should have given Mr Y a warning about this, but it didn't. She upheld Mr Y's complaint on these grounds and said eToro should refund all of Mr Y's deposits plus interest and pay him an amount for distress and inconvenience.

eToro responded to the investigator's first view and said Mr Y made his losses trading in unregulated cryptoassets and not CFDs in general or cryptoassets CFDs. It said Mr Y's trading that resulted in losses was an unregulated area not subject to appropriateness requirements when he carried out the trades. Trading in CFDs however it said was deemed

appropriate for Mr Y and this was an activity that Mr Y overall made a profit in. It said it did nothing wrong in agreeing to let Mr Y have an account to trade in regulated activity in this regard.

The investigator sent a second view and said on the back of new evidence, she could see Mr Y was trading in mostly cryptoassets and not CFDs. She said her view still stood that the trading account was not appropriate for Mr Y and that it shouldn't have allowed him to trade in CFDs. But she said, any compensation should only apply to Mr Y's CFD trades and not trades in cryptoassets. She said eToro should award a payment for distress and inconvenience. She concluded that eToro were right to place restrictions and then close Mr Y's account and didn't uphold this part of Mr Y's complaint.

Both parties were not in agreement with the investigator's view. Mr Y said he didn't agree with the investigator's view as he would like eToro to keep his account open. He said he would like to be given the opportunity to be able to reduce his losses [by continuing to trade] over time. eToro said it also disagreed with the investigator's view. It said Mr Y profited from trading in CFDs. It said it doesn't understand why it should pay redress in circumstances where a client has profited from using its services.

I issued a provisional decision on this complaint on 10 June 2024. Both parties have received a copy of that provisional decision, but for completeness I include an extract from the decision below. I said;

"I think the crux of Mr Y's complaint is that he wants eToro to reopen his account so he can continue trading. He has stated throughout that he would like to continue to use eToro's services. He has told our service that he doesn't feel eToro is being fair by placing restrictions and then closing his account.

With this in mind, I have first of all considered what has been said by the parties involved to date about whether the account was appropriate for Mr Y. In doing so, I don't think, on this occasion, that eToro needs to take any further action about this. I say this because even if I were to conclude that a trading account wasn't appropriate for Mr Y and eToro ought to have issued a warning to him about this, I think he would have gone ahead and agreed to have the account anyway.

I have drawn this conclusion, because Mr Y hasn't complained about whether the account was appropriate for him, has maintained throughout that he wanted to trade and would like the account reopened so he can continue to do so. He has been clear on a number of occasions about that. This suggests to me on balance, that he would have agreed to proceed and agree to an account, even if eToro had warned him that its services were not appropriate for him. I also don't think the answers given by Mr Y, on balance should have alerted eToro to prevent him from opening an account at all. So, for the reasons I have given, I don't think it needs to do anything further.

As I have already mentioned though, I think Mr Y's complaint is about whether eToro should have restricted and then closed his account or not and whether it should reopen it.

eToro said it acted on new information it received after a telephone call with Mr Y. It said it took action to restrict his account at this point and gave the reason that it felt continuing to operate the account, would more likely lead to detrimental outcomes for Mr Y. It gave the reason to Mr Y in an email, that following the initial conversation, it was made aware that Mr Y wanted to use the funds he was trading with to buy a property. It said it took the action it did to protect Mr Y in this regard.

I can see that eToro acted based on what Mr Y told it and in doing so it was following the terms and conditions that it had provided from the outset about Mr Y's trading account. I don't think it has done anything wrong here and can see that it based its decision on what it felt was protecting Mr Y from harm, presumably because he was risking his savings, that he told it he wanted to use to put towards a house, by trading. And I think it's worth mentioning at this point, that trading in CFDs and cryptoassets is high risk investing and Mr Y would have been exposed to further losses if he had been allowed to continue to trade and open new positions.

In addition, I can also hear during the initial phone call Mr Y informing eToro that he was about to lose his job and that his contract was coming to an end within a month. So, on hearing this, I can understand the reasons why it acted and can see that it was able to do so within the terms it set for Mr Y's trading account. It follows, that I don't think it treated Mr Y unfairly when it did this.

Mr Y said to our service that he would like eToro to reopen his trading account, but I am not going to ask it to do this as I don't think it has done anything wrong.

In conclusion, I currently don't think eToro needs to do anything further regarding whether the account was appropriate for Mr Y or not, for the reasons I have given above. I am also currently minded to conclude eToro treated Mr Y fairly when it restricted his account and then subsequently went on to close it."

I asked both parties to let me have any comments, or additional evidence, in response to my provisional decision. Mr Y responded on 1 July 2024 and said my provisional decision wasn't fair but didn't provide any further comments by the deadline that I set. eToro responded on 3 July 2024 and said it didn't want to make any further submissions.

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.

Neither party has anything further to add that I feel I need to comment on or that will change the outcome of this complaint. So, because of this, I don't see any reason to depart from my findings within my provisional decision. So, I don't uphold Mr Y's complaint.

My final decision

My final decision is that I don't uphold Mr Y's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 6 August 2024.

Mark Richardson
Ombudsman