

Title: COBS 6.1H - Forcing UK brokers to allow outbound transfers.

Author: Frenchy_P

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PREFACE

It has been generally accepted by the masses here in the UK that certain brokers will not allow a transfer of shares via re-registration of the security. Trading 212 for instance does not allow transfer of shares at all. Securities may only be liquidated then withdrawn as cash.

When transferring securities held a Trading 212 ISA to another ISA provider, accounts must also be liquidated and transferred as cash to the new provider as laid out in Trading 212's additional terms and conditions for ISA accounts:

4.5. Trading 212 can only facilitate incoming and outgoing cash ISA transfers and does not offer in specie (in the form of Investments) transfer services. Trading 212 will not be liable for any tax implications or other costs arising from cash ISA transfers.

SOURCE: <https://www.trading212.com/legal-documentation/en/additional-terms-isa-before-02-03-2022.pdf>

I didn't think this was particularly fair for the retail trader so I read up on FCA regulation and it would appear that they are inclined to agree with me...

FCA REGULATION

From the top then.

****March 2019**** \- FCA publishes the Investment Platforms Market Study (IPMS) Final Report

****MS17/1.3**** outlining potential avenues to increase competition and efficiency in the marketplace.

SOURCE: <https://www.fca.org.uk/publication/market-studies/ms17-1-3.pdf>

****March 2019**** \- FCA publishes Consultation Paper ****CP19/12.**** The document requests feedback on proposed rules regarding 'Making Transfers Simpler'. One particular rule of interest is item 3.9:

the platform *******must offer consumers the choice of transferring units 'in specie', where the same investment fund is available in both the ceding and receiving platform******* *for investment by the consumer*

SOURCE: <https://www.fca.org.uk/publication/consultation/cp19-12.pdf>

****December 2019**** \- FCA publishes Policy Statement ****PS19/29**** 'Making transfers simpler –feedback to CP19/12 and final rules'.

Right there in the summary, item 1.3:

Having considered the feedback we received, we have decided to implement the rules we consulted on without amendment.

And from item 1.25:

The new rules will come into force on 31 July 2020.

From page 2 of the annex:

Amendments to the Conduct of Business sourcebook (COBS) Insert the following new section, ***COBS 6.1H****, after COBS 6.1G*

SOURCE: <https://www.fca.org.uk/publication/policy/ps19-29.pdf>

From **COBS 6.1H.3:**

*Where a client contacts a platform service provider in connection with a *potential* *transfer of their investment which is, or includes, units,* ***the platform service provider must provide the client with:***

(1) ***the option of an in-specie transfer*** *of units in an available scheme,* ***provided there are no*** ***circumstances*** ***outside the control of either the ceding or the receiving platform*** ***which would prevent such transfer.***

And note **COBS 6.1H.6:**

If a platform service provider is unable to give effect to all or part of a client's transfer instructions, it must contact the client at the earliest opportunity to request further instructions.

Communications with Trading 212

After communicating the above to Trading 212, I received the following reply:

Hi there, **REDACTED**,

Thank you for reaching out on **REDACTED** via our live chat. I hope your week is going great so far!

We very much appreciate your time and raised questions regarding the transfers of shares. This is why I'd like to shed a bit more light with this email.

In the past year, transfers of shares were one of the most discussed topics among our clients. As the demand for this service grew, our team already began considering its future implementation.

Allow me to note that CP19/12 by the FCA (also known as the IMPS) was a Consultation document from

2019. Its aim was to discuss and propose measures to ease the process of moving clients' assets to another platform and improve competition in the sector. On the contrary, PS19/29 represents the Policy statement containing the feedback received from the consultation document CP19/12 (IMPS). While the PS19/29 document introduces the new set of rules for providers to offer such service if available, I'd like to note that in our [Additional Terms for Stocks and Shares ISA](<https://www.trading212.com/legal-documentation/en/additional-terms-isa-before-02-03-2022.pdf>), we have carefully noted in point **4.5** of "4. Transfer/Withdrawal" the following:

4.5. Trading 212 can only facilitate incoming and outgoing cash ISA transfers and does not offer in specie (in the form of Investments) transfer services. Trading 212 will not be liable for any tax implications or other costs arising from cash ISA transfers.

On the contrary, **6.1H.6** of the PS19/29 Annex by the FCA states the following:

If a platform service provider is unable to give effect to all or part of a client's transfer instructions, it must contact the client at the earliest opportunity to request further instructions.

While transfers of shares are not among our services at the moment, we have complied with all regulations set by the FCA and HMRC to inform our clients beforehand in our Terms and Conditions that such a feature is not supported on our platform. The Terms and Conditions are presented when an account is being created and any client can go through them during the account opening process and after.

I can understand the frustration that the lack of this service can cause, **REDACTED**, but I can assure you that our team has never taken for granted the clients' feedback. Our progress and improvement as a platform and services have always been majorly impacted by you - the clients.

Thank you for your time, **REDACTED**!

As soon as any updates are present regarding transfers of shares, we will inform you at the earliest convenience.

Yours sincerely,

REDACTED

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My response to the above was as follows:

Good afternoon, Thank you very much for your reply and considered response. You cite **6.1H.6** of PS19/29. However it would seem that this clause is only to be considered when:

a platform service provider is unable to give effect to all or part of a client's transfer instructions.

Since I have not given any transfer instruction, I would refer you to 6.1H.3 of the same document that states:

*Where a client contacts a platform service provider in connection with a ***potential*** *transfer of their investment which is, or includes, units,* ***the platform service provider must provide the client with:***

(1) ***the option of an in-specie transfer*** *of units in an available scheme,* ***provided there are no circumstances outside the control of either the ceding or the receiving platform*** *which would prevent such transfer;*

Therefor, are you able to inform me of the specific circumstances preventing Trading 212 from carrying out such an instruction?

I am aware of Trading 212's policy on not offering in-specie transfers however surely company policy does not overrule FCA regulation in this instance?

I appreciate your time and patience on this matter.

Kind regards,

****REDACTED****

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****Trading 212 are yet to respond to the above.****

Communications with the FCA

Upon asking the FCA whether brokers were beholden to these rules as expected, they replied with the following:

Dear ****REDACTED****,

Thank you for contacting the Financial Conduct Authority (FCA) and bringing your concerns about the organisation *****Trading 212 UK Limited***** [<https://register.fca.org.uk/s/firm?id=001b000000NMI1QAAT>] to our attention. I appreciate you would like further clarity on the FCA rules in relations to the transfer of shares to another brokerage company.

****Our Rules****

As the firm is regulated by us, we have rules and guidance in place which the firms are expected to follow. In relation to the information provided, I have been able to find our rules within *****COBS 6.1H***** [<https://www.handbook.fca.org.uk/handbook/COBS/6/1H.html?date=2021-07-01>] which has further clarification on what firms are expected to do when platform switching. Additionally our rules in *****COBS 2.2***** [<https://www.handbook.fca.org.uk/handbook/COBS/2/?view=chapter>] has further information about information disclosure expected from the firm.

****Complaints process****

If you feel the firm have been treating you unfairly and the firm have failed to disclose this information to you within your documentations and terms and conditions, then you may wish to go through the *****formal complaints process***** [<https://www.fca.org.uk/consumers/how-complain>].

According to the *****complaints process***** [<https://www.fca.org.uk/consumers/how-complain>], there is a statutory eight-week period for a firm to respond to your complaint. Payment Service Providers and e-money issuers must normally respond to *****certain types of complaint within 15 business days***** [<https://www.fca.org.uk/publication/finalised-guidance/fca-approach-payment-services-electronic-money-2017.pdf>]. ******* After this has been exhausted, you may have the option to escalate the case with the *****Financial Ombudsman Service***** [<http://financial-ombudsman.org.uk/>]. The Financial Ombudsman Service have the authority to investigate individual cases and can mediate between yourself and the firms to see exactly what's happened and they can determine whether they can investigate it for you further.

****Further Guidance****

As we are not legally trained, there is an organisation called the *****Citizen Advice Service***** [<https://www.citizensadvice.org.uk/>] who may be able to provide some free legal advice and guidance.

The information you have provided to us has been logged against the firm for our wider supervisory team

to be aware of. I hope the guidance provided above can assist you further, if you need any further guidance please do not hesitate to contact us.

Your reference number is **REDACTED**.

Yours sincerely,

REDACTED

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Since the FCA has simply reiterated the rule in question and provided links for the proper complaints process, I take this as a nod that platforms should in fact be allowing in specie transfers of shares to any other platform that trades the same instrument/product.

I intend to follow up with Trading 212 this week and if I do not get a prompt reply with detailed reasoning as to why an in specie transfer is not possible then I will file an official complaint with the financial ombudsman service as advised by the FCA.

CONCLUSION

Forcing our brokers to allow in specie transfers would free up a huge swathe of GME shares that are currently unable to be DRSD without first being sold at the open market.

I implore you all to ask your broker why they are not allowing in specie transfers as protected by FCA regulation.

Please do discuss and poke holes in my research.

****TA;DR:**** Potentially overlooked FCA regulations might force platforms that do not allow DRS, to allow transfers of GME to a platform that does allow DRS without liquidation. If true could allow a new wave of DRS.