

25 October 2022

Final report by the Complaints Commissioner**Complaint number 202201149***The complaint*

1. On 20 July 2022 you asked me to investigate a complaint against the FCA.

What the complaint is about

2. The FCA summarised your complaint as follows:

Part One

The FCA was wrong to temporarily suspend trading of Evraz Plc shares and in doing so it has failed to protect investors.

Part Two

The FCA has not provided enough information to justify the temporary suspended trading of Evraz Plc shares and it has failed to keep investors updated.

What the regulator decided

3. The FCA did not uphold either complaint. With regards to Part One it said:

When reaching the decision to temporarily suspend Evraz Plc shares (on 10 March 2022), the FCA took into consideration the uncertainty surrounding the intention and impact of the sanctions. Firstly, had Mr Abramovich sold his shares in the secondary market then ordinary investors could purchase these shares which were subject to an asset freeze. It was unclear whether by purchasing those shares such an investor would be committing an offence. A Foreign, Commonwealth & Development Office (FCDO) statement said, “an asset freeze prevents any UK citizen from dealing with funds or economic resources which are owned, held or controlled by the designated person and which are held in the UK.” Therefore, the FCA took the decision to suspend the listing to

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prevent investors from potentially and unknowingly committing an offence by dealing with shares owned by Mr Abramovich as a designated person. Secondly, the FCA couldn't ignore the references made within the Sanctions List to Evraz Plc potentially assisting Russia in its invasion of Ukraine. It was unclear from the notice what the intended consequence was for including these references and therefore further clarification was requested, as well as a public disclosure to the market from Evraz Plc on what, if any, the immediate impact of the sanctions were. The FCA was concerned that the smooth operation of the market was being temporarily jeopardised in the absence of these clarifications'.

4. With respect to Part Two, the FCA said:

'One of the FCA's operational objectives is to ensure market integrity. Considering the information provided by the UK Government in its sanctions notice about the relationship between Mr Abramovich, the Russian State and Evraz Plc; and the further warning from the FCDO and subsequent risk to investors from potentially and unknowingly committing an offence by dealing with shares owned by Mr Abramovich as a designated person, it was reasonable for the FCA to temporarily suspend trading of Evraz Plc shares to protect investors. It did so and sought further clarification, including public disclosure to the market from Evraz Plc on what, if any, the immediate impact of the sanctions were. The temporary suspension of shares was put in place following the sanctioning of Mr Abramovich and naming of Evraz Plc; however, it's important to note that further sanctions were placed on Evraz Plc directly by the UK Government on 5 May 2022 . These further sanctions directly on Evraz Plc specifically note that "Evraz plc produce 28% of all Russian railway wheels and 97% of rail-tracks in Russia. This is of vital significance as Russia uses rail to move key military supplies and troops to the frontline in Ukraine." This goes on to further explain that the "asset freeze means no UK citizen or company can do business with them....The temporary suspension will remain in place until the circumstances that led to the suspension are no longer the case.'

Why you are unhappy with the regulator's decision

5. You have said to me:

'I fully understand that the FCA wants to show solidarity with Ukraine and undermine Russian businesses in response to Russia's invasion of Ukraine. Suspending Evraz PLC shares mostly affects shareholders who are not sanctioned, some of whom will have devastating losses. While the underlying business of Evraz is barely affected. This does not seem fair' and that 'Many shareholders including myself will suffer financial hardship as a result of the FCA's actions'.

My analysis

6. I am sorry to hear that you have experienced financial hardship as a result of the FCA decision to suspend the listing of Evraz PLC. I appreciate your point that there may be others in a similar position to you. However, the FCA has to balance its consumer protective objective in the round (as opposed to a certain cohort of investors, such as the investors in Evraz specifically) as well as its market integrity objective.
7. The FCA explains that FCA Market Oversight Team's concerns which led to the temporary suspension of the listing of the shares on 10 March 2022 were twofold:

'1) The extent that someone investing in the shares may be unwittingly committing a breach of the UK's sanctions regime

2) A lack of information provided to inform the market – including clarity regarding:

- i. the company's operations (e.g. whether it did indeed supply steel for tanks)
- ii. The effect of sanctions on the company
- iii. Ownership of the company and the extent to which it was controlled by Mr Abramovich.

Following the sanctioning of Evraz by the UK Government on 5 May 2022, we reviewed whether the basis for the temporary suspension of listing as

set out above remained in place and concluded that there was still a basis for suspension.

This was particularly the case in relation to the lack of information provided to the market on the impact of the sanctions on the company's operations and financial position and its ability to comply with its continuing obligations as a listed company. We were not directed at any point by the UK Government to suspend the listing of Evraz's shares. We made an independent assessment as to whether we should exercise our powers to suspend the listing'.

8. You have expressed doubts to me that the suspension of trading in Evraz shares will affect the company's financial position or operations. However, my task is to assess whether or not the decisions taken by the FCA were within the range of decisions which the regulator could reasonably have taken, in the light of its statutory duties and policies. Fundamentally, there was a difference of opinion between you and the FCA about how interventionist the regulator should be in the circumstances. The FCA's decision letter was, in my view, a generally well-intentioned attempt to explain the FCA's overall approach, including explaining those issues which, in its view, which made it difficult for it to predict with absolute certainty that there would be no harm caused to the firm as a result of sanctions and how that might affect its ability to comply with listing obligations.
9. In my opinion, the FCA's considerations above were valid. Whilst I have sympathy for your situation, I do not find it unreasonable for the FCA to continue in its course of action until it is satisfied that its concerns above have been addressed and that any possible reinstating of Evraz share trading would not impact either its overall consumer or market integrity objectives. Therefore I do not uphold your complaint.

My decision

10. I appreciate you remain dissatisfied with my decision not to uphold your complaint and you remain sceptical of the possibility of anyone buying Evraz shares from a sanctioned individual inadvertently. Nevertheless, such a

possibility exists, but that is not the only reason the FCA has suspended the listing. I refer you to paragraph 7 (2) above for further details.

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Complaints Commissioner

25 October 2022