DRN-4083427

The complaint

Mr F complains that three of his contract for differences positions were wrongly closed by eToro (UK) Ltd. He says the spread was too large – and larger than set out in the agreed terms – and that his stop loss was wrongly triggered.

He wants eToro to refund the losses caused by the positions being closed, plus compensation for the profit he would have made if the positions hadn't been closed, and compensation for his time and the stress caused.

What happened

Mr F opened an execution only contract for differences ("CFD") trading account with eToro in 2018. In March 2023, he had three open short positions in a Canadian dollar to Swiss Franc exchange rate CFD ("CADCHF"). For one position he'd set a stop loss to trigger when the rate reached 0.6841m and for the other two positions he'd set a stop loss at 0.6790.

Shortly after the market opened on 7 March 2023, Mr F's stop losses were triggered and his positions were closed.

Mr F said the positions were closed because of the large spreads which were manipulated by eToro. He thinks it has changed its algorithm to actively hunt clients' stop losses.

eToro said that spreads were variable and some instruments, such as the exchange rate pair involved here, were more volatile and therefore experienced higher spreads. It said Mr F received the correct rate and the platform worked as it was designed to do in triggering the stop losses. It told us it had suspended trading for three minutes when the market opened, because the spread exceeded 0.5%.

Our investigator didn't recommend that the complaint should be upheld. He thought eToro had acted fairly and in accordance with its terms and conditions and best execution and order handling policy. He said the spread was inflated due to low liquidity on 7 March and that Mr F had been made aware that spreads vary and can widen.

Mr F didn't agree. He said, in summary, that:

- It wasn't right that eToro controlled the safety mechanism (closing trading) which it financially benefitted from when it failed. eToro should close trading during the volatile period when the market opens.

- He knows people who had the same positions on different trading platforms with the same stop loss in place and their positions weren't closed. He thinks eToro has widened its spreads from 2023 and that it's changed its algorithms because he only started experiencing this problem in 2023, following 10 years of trading.

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.

Having done so I find I have come to the same conclusion as the investigator for the following reasons:

The trading price of the CFD was set by eToro. And in its best execution and order handling policy, it explains how it does this. It says:

> "*All prices offered by us (on our platform) are ultimately formed, provided and determined by us. We are therefore required to ensure that the way in which we set the price is fair."* (2.5)
>
> "*Our prices are formed, provided and determined by us with reference to feeds which may change from time to time and may differ depending on the instrument. The feeds include independent third-party price providers and independent financial market data providers, who in turn receive their price data from the relevant exchanges; and/or third-party liquidity providers/hedging counterparties."* (2.6)
>
> "*While we take into account the feeds which we obtain, we are under no obligation to ensure that the quotes/prices that we provide are within any specific percentage of prices provided by feeds. This means that if the prices we receive are distorted, for example as a result of an Exceptional Event as detailed in the Agreement, we may make adjustments to the price we offer."* (2.8)

This means that eToro wasn't free to set any price; it needed to ensure the CFD price was a fair reflection of the underlying rate, although it could make adjustments if the prices provided by its feeds were distorted, for example due to lack of liquidity or market conditions. This meant it couldn't manipulate the price just to cause Mr F's stop loss to trigger as he suggests. Neither could it artificially change the price in such a way as to no longer make it reflective of the underlying exchange rate.

I'm satisfied that the spread of the underlying exchange rate had widened when the market opened on 7 March 2023. This isn't unusual taking into account that the currency pair Mr F was trading in was one of the more illiquid. And I'm satisfied that the prices quoted by eToro fairly reflected the underlying price.

In addition to the spread between the bid and offer prices received from its feeds, eToro applied its own spread to every price, as a trading fee.

On its website, for a CADCHF CFD, it quotes the spread as being 4 pips. But it says:

> *"Fees generated from the spread will be charged at the closing of a position. There may be instances where market conditions cause spreads to widen beyond the spreads displayed.*
>
> *Spreads indicate the lowest possible scenario. Spreads are variable and may fluctuate."*

It's not surprising the spread was wider in this particular instance, because of the volatility of the underlying exchange rate in the first few minutes of market opening.

Mr F had set one stop loss at 0.6841. When the market opened, and the trading suspension was removed, the stop loss was triggered at the next available rate – 0.6835.

The other two positions had a stop loss of 0.6790 and this was triggered and the positions closed out at that price.

I’m satisfied that, in both cases, the stop losses were fairly triggered and Mr F’s positions were closed at the available price.

eToro had temporarily stopped trading for around three minutes from when the market opened. This was because the spread was more than 0.5% and it aimed to protect clients from inflated spreads caused by the volatile market conditions.

My role is to resolve individual disputes between businesses and consumers. I don’t have the power to tell a business how it should treat all customers or how it develops its internal policies. That’s a matter for the regulator, the Financial Conduct Authority (FCA). There isn’t a specific regulatory requirement for eToro to protect clients from market volatility or increased spreads. But there is a requirement for eToro to act in its clients’ best interests. So I don’t think it’s unreasonable for eToro to suspend trading during exceptional market conditions to protect its clients. It’s for eToro to decide how and when it does this. That said, I don’t find eToro’s trigger of 0.5% to be unreasonable, taking into account that it needs to be low enough to reasonably protect clients, but high enough to prevent trading being suspended too frequently. I’m satisfied that the suspension was removed once the spread reduced to less than 0.5% and this was when Mr F’s positions were closed. Taking all this into account, I don’t find eToro treated Mr F unfairly.

Mr F refers to acquaintances with the same positions held on other platforms. I can’t comment on how other providers set their prices or spreads. I’m satisfied that eToro makes it reasonably clear that its prices may differ from other providers. It says:

> “*Our pricing and execution methodology means that securities traded on our platform…may not reflect the underlying prices that may be available on any market to which the security may be traded, and our OTC CFD prices may differ from those provided by other investment firms*.” (Best execution and order handling policy, 2.9)

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr F to accept or reject my decision before 7 June 2024.

Elizabeth Dawes
Ombudsman