DRN-4083431

The complaint

Mr F complains that five 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.

What happened

Mr F opened an execution only contract for differences ("CFD") trading account with eToro in 2018. At the end of 2022, he had five open short positions in a euro to Canadian dollar exchange rate CFD ("EURCAD"). He'd set a stop loss to trigger when the price reached $1.455.

Shortly after the market opened on 1 January 2023, Mr F's stop loss price was triggered and his positions were closed. Shortly after that eToro closed the market in EURCAD.

Mr F says the high on the previous trading day was $1.4510, so lower than his stop loss price, and that the market opened lower on 1 January. He says the positions were closed because of the large spread.

eToro said that on 1 January 2023, the EURCAD opened at $1.4554, Mr F's stop loss was correctly triggered and his positions were closed. It said the spread was correct, and was larger because of increased volatility at market opening.

It confirmed that it closed trading in EURCAD CFDs seven minutes after Mr F's positions were closed to protect clients from inflated spreads caused by the volatility. But that the spread when Mr F's positions were closed was within its allowed spread percentage.

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 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. It should have closed trading earlier than it did.
- 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 to actively seek nearby stops and trigger them.

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 1 January 2023. This isn't unusual when markets reopen after a weekend or holiday. 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 EURCAD CFD, it quotes the spread as being 7 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 a stop loss at $1.4550. When the market closed on 30 December 2022, that price hadn't been reached, so it was correct that the stop loss hadn't been triggered.

When the market reopened on 1 January 2023, the price was 1.4554. I'm satisfied that Mr F's stop loss was fairly triggered and that his positions were closed at the available price.

Around seven minutes after Mr F’s positions were closed, eToro suspended trading in EURCAD CFDs. It’s explained that, when the spread exceeded 0.6%, it temporarily stopped trading 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 0.6% 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 can understand Mr F’s frustration that trading was suspended within a short time – seven minutes - after his positions were closed. And that if it had been suspended from market opening, his trades wouldn’t have been closed. But I’m satisfied that the 0.6% trigger hadn’t been reached 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