DRN-4195287

The complaint

Mr G complains that Trading 212 UK Limited ('Trading 212') failed to roll over his futures contract and so caused him a financial loss. He wants Trading 212 to reimburse him for the loss.

What happened

Mr G had a trading account provided by Trading 212. In the account he had some futures contracts. The contracts were designed to expire on a monthly basis. But Mr G had in place an automatic rollover for the contracts. The automatic rollover meant Trading 212 reopened the positions for him each month.

On 14 February 2023 Mr G's futures contracts were due to expire and roll over. But an error by Trading 212 meant they failed to roll over. So the contracts simply expired. And the loss Mr G had been carrying was realised.

Mr G contracted Trading 212 to ask why this had happened. Trading 212 said it had made an error and, to put things right, it would pay any difference in price if Mr G opened the futures contracts for March 2023 that he would've had if the February 2023 contracts had rolled over.

Mr G said he didn't want to open the March 2023 contracts. He said he didn't want to deposit or invest any money because he didn't have confidence that the same thing wouldn't happen again. He wanted Trading 212 to reopen the contracts on his behalf. And he wanted Trading 212 to pay him the amount of the loss he'd realised when his contracts didn't roll over. He also said he'd gladly open a position if Trading 212 refunded his loss. And he asked how he could open a position if he didn't have enough funds because of Trading 212's error.

Trading 212 said it couldn't do these things and set out why. Mr G was dissatisfied. So Trading 212 registered a complaint from him.

In response to Mr G's complaint Trading 212 apologised for failing to roll over Mr G's contracts and said it had offered to pay any costs involved in opening a new position, to put Mr G back in the position he would've been in had the rollover been done. It said it wasn't possible simply to reinstate his position because the contracts had expired when they failed to roll over. And any positions held would've been rolled over into the subsequent contracts anyway. So Mr G's net position wouldn't actually have been affected. And because Trading 212 would've met the cost of any price differential, Mr G would be in the same position he would've been in had the rollover occurred.

Trading 212 further said that Mr G was required under the terms and conditions of his account to maintain the specified margin. And so it didn't agree that it should offer an alternative solution or compensation in addition to what it had already proposed.

Mr G referred his complaint to this service. He said Trading 212's proposal meant he'd have to invest again and open a new position. Instead he wanted Trading 212 to return his losses, and he would re-enter the position '*without their help and their bonuses*'. Trading 212 had refused Mr G's proposed solution, and wouldn't give him a guarantee that a technical error wouldn't occur again.

One of our Investigators considered Mr G's complaint. He thought Trading 212 had made a reasonable proposal to put things right for Mr G. He said he understood Mr G wasn't happy with Trading 212's proposal because he hadn't had the available margin to open the position, but clause 8.2 of Trading 212's terms and conditions required Mr G to maintain the necessary margin in order to hold the position. The Investigator said the loss that was realised had existed on Mr G's account before the position failed to roll over, and it wouldn't be fair to ask Trading 212 to reimburse that loss simply because it had been realised. The Investigator concluded that Trading 212's offer was appropriate at the time. And, even though it was no longer appropriate due to the passage of time, he didn't think Trading 212 should have to do anything further.

Mr G disagreed. In summary he said he'd been due to hold his position through March 2023. And, given the action of the market at the beginning of March 2023, he could've made money on that position. He said he'd had the means to cover his positions but he didn't open any positions because Trading 212 didn't guarantee that the rollover error wouldn't happen again.

The Investigator said Trading 212 had said it would try to ensure the error wouldn't happen again, and it was reasonable for Trading 212 to refuse to give a guarantee because errors could and did occur. So the Investigator said it was Mr G's choice not to re-enter the market, and Trading 212 wasn't responsible for his loss.

The Investigator also said the futures contract Mr G had was one that expired on a monthly basis. So, while automatic rollover makes it look as though one position is maintained continuously when it's rolled over it is in fact closed and the same position is opened in a new futures contract. So the loss on Mr G's contract would've been realised in any event on 14 February 2023. And Mr G would also need to maintain sufficient margin to allow the rollover to occur.

Mr G said it was strange that a broker could say he had insufficient margin and therefore it couldn't roll over the contract.

Because no agreement could be reached, the complaint was passed to me to review afresh and make a decision.

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'm not upholding the complaint. I'll explain why.

The purpose of this decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point response to every submission made by the parties to the complaint. And so, while I've considered all the submissions by both parties, I've focussed here on the points I believe to be key to my decision on what's fair and reasonable in the circumstances.

It's not in dispute that Trading 212 made an error which caused Mr G's position to be closed without being rolled over. But Mr G isn't satisfied with what Trading 212 did to put things right. So I've considered whether, to be fair and reasonable to Mr G, Trading 212 should do more.

After it failed to roll over Mr G's position Trading 212 apologised for the error and offered to reimburse any costs involved in Mr G opening the positions that he would've had if the rollover had happened. I think this was a fair and reasonable response to what had happened.

When a business has made an error, this service usually looks to put the customer back in the position they would've been in had the error not occurred. When a customer has lost out financially as a result of the business's error, we usually tell the business to compensate them for the loss that the error caused.

In this case, if Trading 212 had made no error, Mr G's February 2023 futures contracts would've rolled over. That means he would've had March 2023 contracts. So by offering to pay any additional costs associated with opening the March 2023 contracts, Trading 212 offered to put Mr G back in the position he would've been in if the error hadn't happened. Mr G would've had the March 2023 contracts that he'd missed out when they weren't opened automatically. And he would, in effect, have paid the same price for them that they would've cost if the positions had been rolled over.

Mr G has said it was Trading 212's failure to roll his positions over that caused his financial loss. I don't agree. The loss already existed in Mr G's account. When his contracts expired without new ones being opened, his loss was crystallised, but it was the same loss he was already carrying. If Trading 212 had rolled over his contracts like it should have, Mr G's loss would've been carried over. If in March 2023 the market moved in a way that would've reduced or eliminated that loss, Mr G still could've taken advantage of that movement if he'd opened the March 2023 contract as suggested by Trading 212. The fact that he'd opened the contracts separately rather than had them automatically rolled over wouldn't have made him any better or worse off.

In relation to distress and inconvenience, Trading 212 apologised to Mr G. I think that's a reasonable gesture, particularly given that Trading 212 had promptly offered to put Mr G back in the position he would've been in if the error hadn't occurred.

Mr G gave various reasons for not accepting Trading 212's offer to put things right. Having carefully considered these reasons, I remain satisfied the offer was fair and reasonable.

Mr G indicated to Trading 212 that he didn't have sufficient funds to open the March 2023 positions that had failed to rollover. But he later said he did have sufficient funds. On balance I don't think Trading 212 stopped him from opening the positions that should've rolled over. And I note Trading 212 pointed out that Mr G had to retain the required level of margin to maintain his positions anyway.

Mr G also said he'd be happy to open the positions he'd missed out on if Trading 212 refunded his losses. But, as I've said, Trading 212 wasn't responsible for the losses. So I don't think it's fair to expect Trading 212 to reimburse him for the losses.

The possibility that Trading 212 could again, in future, fail to rollover Mr G's positions doesn't negate the value of Trading 212's offer to put things right for Mr G. Trading 212 would still have put Mr G back where he'd been financially.

Overall Mr G had the opportunity to restore himself to the position he would've been in had the error not occurred. This would've entailed no financial loss to him. The fact he chose not to do so was Mr G's decision. It wouldn't be fair to hold Trading 212 responsible for that. I'm satisfied Trading 212 took responsibility for its error and took appropriate steps to put things right for Mr G. So I won't be asking it do anything further.

My final decision

For the reasons I've set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 2 July 2024.

Lucinda Puls
Ombudsman