

The complaint

Mr E complains that StoneX Financial Ltd trading as Forex.com ('Forex.com') closed two of his trading positions when it should have closed only one. He says that caused him a significant financial loss.

What happened

Mr E had a trading account provided by Forex.com.

On 22 August 2022 Mr E had two positions which Forex.com closed. Mr E suffered a loss on both positions. He complained to Forex.com about the closure of the positions.

Forex.com didn't uphold the complaint. It said it had acted in line with its terms and conditions. It cited the terms and conditions which said the following:

'11. Margin Close Out Level

11.1 If the Margin Level for your Account reaches or falls below the Margin Close Out Level, this will be classified as an Event of Default under clause 16. In such circumstances we may (and will, where and to the extent this is required by applicable laws and regulations) close all or any of your Open Positions immediately with or without notice. In addition we may, among other things, refuse to execute new Trades until your Margin Level exceeds the Margin Close Out Level. It is your responsibility to monitor your Account(s) at all times and to maintain your Margin Level above the Margin Close Out Level. We will close your Open Positions at Our Price prevailing at the time when your Open Positions are closed.

...

11.5 The Margin Close Out Level is designed to help limit the extent of your trading Losses ...'

Forex.com said that on 22 August 2022 Mr E's equity had fallen below 50% of the margin requirement and so it had closed his positions in line with the terms and conditions.

In the process of corresponding with Mr E about his complaint, Forex.com also wrongly told Mr E that when his margin fell below the required level of 50% Forex.com would liquidate whichever of his positions showed the largest unrealised loss, followed by the position with the next largest unrealised loss, and it would stop liquidating positions when the margin requirement had been met. Forex.com recognised that this was incorrect and it offered Mr E USD 200 to compensate for giving him wrong information in response to his complaint.

Mr E referred his complaint to this service. He said Forex.com shouldn't have closed both his positions and he wanted to be reimbursed for his financial loss.

One of our Investigators considered Mr E's complaint. He said Forex.com had acted in line with the terms and conditions which Mr E had agreed to when he opened the account. And the terms and conditions were in line with what the regulator required. The Investigator also

said the wrong information from Forex.com had only been given to Mr E after his positions had been liquidated, so it hadn't affected his actions prior to the liquidation.

Mr E said he'd been told before the liquidations that Forex.com would only liquidate enough positions to restore the required margin, and that's what Forex.com's practice had been.

The Investigator said further that the regulator's rules about margin and liquidations gave brokers discretion about which and how many positions to close out. He said the terms and conditions said Forex.com may close all open positions or some positions.

Forex told this service there'd been only two liquidations on Mr E's account and both were total liquidations of all positions. And its policy on liquidation hadn't changed since 2017. And, apart from the instance of wrong information that occurred after the August 2022 close-outs, Forex didn't have any correspondence with Mr E in which it had said it would close only those positions that needed to be closed to restore margin.

The Investigator said he thought the complaint shouldn't be upheld. And he thought the offer of USD 200 was fair to compensate Mr E for having given him wrong information in response to his complaint.

Mr E disagreed. In summary he said the following:

- If the practice of Forex.com was to close all positions when the margin requirement was breached, then it should say that, or else it was misleading customers.
- It was unfair to close all positions when it could've closed just one.
- Forex.com told Mr E its practice was to close positions successively until the margin requirement was met.
- USD 200 wasn't enough compensation because Mr E's financial loss was much greater and USD 200 was the same amount Forex.com had already offered him.

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 terms and conditions clearly said Forex.com could close all of Mr E's positions if his equity fell below 50% of the margin requirement. And the evidence indicates that Mr E's equity did drop below that level. So I'm satisfied Forex.com acted within the terms and conditions of Mr E's account when it closed his positions.

I don't agree it's misleading for Forex.com to say in its terms and conditions that it may close some or all positions when the margin requirement is breached. By flagging that either could happen, Forex.com communicated to Mr E that he could have all his positions closed if he didn't maintain sufficient margin. The terms and conditions make clear that it's his responsibility to maintain the required margin, and they indicate the possible consequences of not doing so.

I understand Mr E feels it's unfair for Forex.com to have closed both his positions if it could've closed only one. It remains the case the Forex.com was required by regulations to close at least some positions and it had the discretion to decide how to do that. Forex.com's terms and conditions said the margin close out level was designed to help limit the extent of Mr E's trading losses. And I don't think it's unreasonable for Forex.com to apply the total close-out that was envisaged by the terms and conditions.

Mr E hasn't provided any evidence that Forex.com told him it would close only some positions if the margin requirement was breached. And Forex.com has said it didn't tell him that, prior to the close-outs of August 2022. On the balance of probabilities, I can't conclude that Forex.com did give Mr E wrong information about its close-out policy before the close-outs of August 2022. And there's no evidence that when Mr E's account fell below the required margin level Forex partially closed his positions – in fact its practice had been to apply a total close-out when Mr E's account fell below margin requirements.

I understand Mr E isn't happy with the offer of USD 200 from Forex.com because his financial loss was greater than that and because USD 200 was the same amount Forex.com had already offered him. However, the USD 200 was not offered in connection with Mr E's financial losses. It was simply to apologise for giving him wrong information after he complained about his positions having been closed. In relation to the close-outs themselves, Forex.com didn't agree that it had done anything wrong and so it didn't offer any compensation.

I'm sorry to know Mr E made significant losses on the positions Forex.com closed. But I've found the action Forex.com took in closing the positions was in line with what it said it would do. And it wasn't unreasonable. So from everything I've seen, I don't think it would be fair to ask Forex.com to compensate Mr E for the losses he made on the positions it closed.

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 E to accept or reject my decision before 25 June 2024.

Lucinda Puls
Ombudsman