

The complaint

Mr A complains that the minimum margin requirements for trading Contracts for Difference (CFDs) on options offered by Plus500UK Ltd are too low, breaching regulatory requirements and putting him and other consumers at significant risk, beyond that intended by the Financial Conduct Authority (FCA) regulation.

What happened

Mr A has made several complaints to Plus500 concerning the fairness of its pricing of instruments of this type as he feels that the failure of Plus500 to reasonably reflect the underlying market has led to the unfair forced closure of a variety of his positions due to margin calls. For clarity, those complaints have been dealt with by this service under separate references.

The complaint I'm considering here deals specifically with Mr A's additional, yet related, concerns that Plus500 requires too little margin to be posted when trading these instruments. In short, he says that if Plus500 had applied margin requirement in accordance with the regulation, which should've been much higher than the requirements it does have in place, he would've avoided many margin calls and not incurred losses on the related positions. As such he feels that Plus500 should reimburse all losses related to this issue.

Plus500 considered Mr A's concerns but was satisfied it had applied the relevant margin requirements correctly, in line with the relevant regulatory requirements.

Mr A referred the matter to this service, but our investigator didn't think the complaint should be upheld. He explained that we didn't have the power to interfere with a businesses' procedures or processes, as it was the role of the FCA to oversee such operational issues. So, he felt he couldn't tell Plus500 what margin requirements it should set. And, because he'd seen no evidence that he considered showed that Plus500 had made any errors when applying its margin requirements, he didn't think it needed to do anything further.

Mr A didn't accept the investigator's opinion, so the matter was referred to me to review.

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 don't uphold the complaint. I've taken into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider was good industry practice at the relevant time. But I think it's important to note that while I take all those factors into account, I'm ultimately deciding what I consider to be fair and reasonable in all the circumstances.

Mr A has highlighted the FCA's Code of Business Sourcebook (COBS), specifically COBS 22.5, which deals with the restrictions on the retail marketing, distribution and sale of CFDs and similar speculative investments.

COBS 22.5.11 sets out the margin amounts required to be posted to open positions relating to restricted speculative investments, which include leveraged CFDs. It gives details relating to the percentage of margin required depending on the underlying asset.

Specifically, COBS 25.5.11(5) says this should be “20% of the value of the exposure that the trade provides when the underlying asset is a share or an asset not otherwise listed in COBS 22.5.11R(1) to (4) above.” As share options are an asset not otherwise listed, they would appear to fall under the 20% requirement. Plus500 requires that all CFDs on options (as an asset not otherwise listed) on its platform are offered with an initial margin requirement of 20%, in line with COBS 22.5.11(5)

Mr A believes the 20% margin requirement should be based on the share price exposure of the share option and not on the share option price. And that doing so would've meant he needed to post a higher level of margin than Plus500 required, thereby avoiding the margin calls. However, Plus500 maintains that positions opened in respect of the instruments in question are based on a specific option, and not for an option based on a share, index etc. such as in the underlying options market. So, its CFDs on options reflect the movements of the underlying options and not of the underlying share.

Having considered both points of view, I'm satisfied Plus500 is applying the margin rate correctly at 20%, given the underlying asset, and in accordance with COBS 25.5.11(5).

But even if I'm wrong about that, I'm still not persuaded the complaint should be upheld. The losses claimed by Mr A relate to positions closed as a result of his account not meeting the overall margin requirements given the positions he had open. Even if Plus500 was acting out of line with the regulatory requirements in respect of the margin it required to open positions, I've not seen that miscalculations by Plus500 led to incorrect margin calls or that it misled Mr A about how much margin would be required to maintain his positions. I'm satisfied Plus500 correctly applied the regulatory requirement that net equity in his account didn't fall below 50% of the margin requirement required to maintain his open positions.

There was nothing preventing Mr A posting additional maintenance margin at any point. He's knowledgeable and experienced in this type of trading, as his detailed submissions demonstrate, so I'm not persuaded he would've been disadvantaged even if the margin required to open any given position was too low.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 24 May 2024.

James Harris
Ombudsman