DRN-5054714

The complaint

X has complained that StoneX Financial Ltd, trading as Forex.com (‘StoneX’) forcibly closed his forex trading account which he says caused him significant losses. He would like for those losses to be repaid.

What happened

X held a forex account (account number beginning 109) with a predecessor business of StoneX since 2012. When X’s account was migrated to StoneX X says he was told his trading platform wouldn’t be affected.

When the European Securities and Markets Authority (‘ESMA’) rules were introduced in 2018 it meant that X’s account was restricted from opening any new positions, known as ‘close only’, so he was only able to maintain his current positions being those positions that had been opened prior to 1 August 2018.

StoneX decided to terminate this type of account in 2024, and informed X. X said he wasn’t able to add funds to his account with his credit card, so his positions were liquidated. X wasn’t happy and raised a complaint with StoneX.

In its response to the complaint on 27 April 2024 StoneX said;

- It explained that it was no longer offering the product.
- The account was created before 2018 when the ESMA intervention measures were enforced.
- His account was to be terminated due to a business decision and X could only maintain the account since 2018 as the account was set to close only.
- Unless X could move his positions to a standard retail account where margin requirements were adjusted to regulatory requirements his account would be closed.

X wasn’t satisfied with StoneX’s response and brought his complaint to the Financial Ombudsman Service. Our investigator who considered the complaint didn’t think StoneX had done anything wrong. He said;

- StoneX had acted within its terms, had provided X with options and support.
- StoneX had informed X why it had authority to close the account.
- He couldn’t agree that StoneX had acted unreasonably.

X disagreed with the investigator. Amongst other points he emphasised he hadn’t been able to add funds to his account via his credit card and that he was told he couldn’t open a further account to transfer his positions as he didn’t have a UK address or identification.

As the complaint remains unresolved, it has been passed to me to decide in my role as ombudsman.

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.

After doing so, I've reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why.

<u>Termination of account (109)</u>

X has said he was never told that his account could be unilaterally closed against his wishes. But the implementation of ESMA rules couldn't have been known before ESMA acted in 2018 to restrict the marketing and distribution of Contracts for Difference and binary options – which included forex – to retail clients due to investor protection concerns. The restrictions included leverage limits, margin close-out rules, negative balance protection, restrictions on incentives and standardised risk warnings. So, my understanding is that the decision wasn't a unilateral one by StoneX but one imposed upon it by the implementation of the ESMA rules. This meant that after August 2018 X's account was changed to close only and X could only maintain his positions. I understand from StoneX that around this time an additional account was opened (account number beginning 609) to allow continued trading.

Following the acquisition of the predecessor business by StoneX in 2021 a review concluded that its customers of X's residency status could keep their existing accounts but could not open new ones under its UK entity. StoneX told us that X had an active account available for trading – which I take to mean account number beginning 609 as above – but he chose not to use it, and it was closed due to inactivity on 22 April 2022.

In 2024 StoneX decided to no longer offer the account type (109) that X used. X was advised on 5 February and 6 March 2024 that his account would be closed on 5 May 2024.

While I can't tell a firm how it should run its own business as that is for the firm to decide, but I can look at the outcome of the firm's decision and the impact that has had on its customer. In this case while it is clearly unfortunate for X that StoneX was no longer willing to offer the type of account X used, I can't agree that it acted outside of its General Terms which X agreed to at the time he became a client. Those terms state;

> '29.4 In addition to any other rights specified in this Agreement, we may cease to offer a Product or end this Agreement and close your Account at any time by giving you 14 days' written notice. This is in addition to any other rights to end this Agreement and/or close your Account which we may have. In the event that we cease to offer a Product or a Market, you shall agree to close any Open Positions relating to such Product or Market during the 14-day notice period unless otherwise instructed by us. After the 14-day notice period, your Open Positions in relation to such Product or Market will be automatically closed out.'

After reading those terms, I'm satisfied they apply to StoneX's right to terminate an agreement a customer had with it and close the account. It also gave X a lot longer notice than the required 14 days as it gave three months' notice. So, I can't agree StoneX has done anything wrong by acting on those terms.

<u>Alternatives available to X</u>

StoneX has us told that it had agreed with X in April 2024 that he could move his open positions to a new account with another of StoneX's subsidiaries subject to completion of its 'Know Your Client' requirements. It told us that although the application was submitted it was later abandoned. And I can see from the system notes that StoneX has provided to us from the time that X did make contact in April 2024 which concluded with the comment on 2 May 2024 that X was applying for a new account and 'Once the account is opened, Will do the position and funds transfer to the new [account type] account.' Other system notes record 'Pending Creation' and 'Waiting for Client Reply'.

X has said that he asked many times to transfer the positions to a new standard retail account, but he was told he couldn't transfer without a UK address and identity. He told us the account was later advertised that it could be opened without a UK address and identity. I can't know how the account was later advertised and what impact that would have had but X has provided a screenshot from his phone of a conversation he had with StoneX and I can see that he was told 'Non-UK residents cannot open a new UK account.' So, it's not particularly clear what happened here as the information I have been given is contradictory.

I asked StoneX about this and it told us that the option for X to transfer his positions to a Caymen Island Monetary Authority ('CIMA') regulated entity was also available but wasn't pursued. So, this latter account may have been an option because of X's non-UK residency.

Overall, it's not completely clear to me what happened here. X was given the option to open another account, but the application wasn't completed. This may have been as a result of the message sent to him told him he couldn't open a UK account because of his residency. But there was also the option of a CIMA-regulated account.

When the information or testimony presented to me is incomplete or contradictory, I have to base my decision on the balance of probabilities and what I think most likely happened.

In this case I think there was the option for X to have another account. StoneX has told us account number 609 had previously been opened for X but closed due to inactivity. Another account was then to be opened but it looks likely the application wasn't completed. And there was also the option of the CIMA-regulated account. Taking all of this into consideration, I think overall it was more likely there were sufficient other options available to X to have a continuing account with StoneX.

Because of this, on the balance of probabilities, I don't find that StoneX didn't offer other alternatives when account number 109 was to be closed.

<u>X's ability to add margin</u>

Xing told us he was trying to add funds to his account to maintain his two positions but wasn't able to via his credit card despite being told the issue had been resolved. I understand this caused Xing's positions to be liquidated against his wishes. If X had been able to add funds to his account – and open an account – then his two positions would have remained open.

StoneX has provided its notes from the time. I can see X made contact on 25 April 2024 as he said he couldn't make a deposit with a Japanese Yen credit card which he had used before. After checking the notes record StoneX concluded it didn't look like there was any restriction in X doing so. And this is what X was told. However, he then received a message saying that the 'current base currency trading account does not support credit card funding.'

Again, it's not completely clear to me what happened but it does look as though StoneX suggested a solution in X funding his account and support was extended. However, StoneX has said X didn't respond and instead brought his complaint to the Financial Ombudsman Service. Clearly, I can't know whether the solution it looks like was offered to X would have resolved the situation. StoneX has said X didn't follow through on the guidance given and if he had engaged then the account could have remained active.

To my mind, this can't be known for sure. But in any event, from the information presented to me, I'm satisfied StoneX did offer to try to support X and resolve the issue in a timely manner, but X didn't respond. So, while its not completely clear to me what happened here, its evident X did raise his concerns about adding margin to his account and StoneX did respond but evidently not to X's satisfaction. But that in itself doesn't lead me to conclude StoneX has done anything wrong. And as I haven't been presented with sufficient to persuade me X's version of the events is more likely, it wouldn't be fair and reasonable for me to ask StoneX anything more here. It follows I don't uphold this complaint point.

That being said, StoneX has told us the account was only maintained due to the losses on the open positions. The two positions that were opened in December 2017 had losses of around £1,100 and since the positions were opened the prices had gone against X and had never recovered. StoneX has told us if the positions hadn't been closed in May 2024 further losses would have been incurred. So, while the future prices can't be known, it may be that X is better off because of the positions being closed.

I empathise with X's position. His account (number 109) was closed against his wishes. But taking all the above into account I can't agree that StoneX has acted incorrectly in closing his account. I accept X is upset about this but that doesn't take away StoneX's right to close his account in line with the terms of its business that X agreed to when he opened the account. And I am persuaded there were alternatives available to him. StoneX did try to help X when he reported his problems in adding further margin to his account which is what I would have expected it to do.

Overall, I don't uphold X's complaint. StoneX did communicate all relevant changes and I am persuaded it communicated the options available to X and that he didn't act on the opportunities presented including the chance to transfer the positions or reinstate an account. I appreciate X will be disappointed in my decision. Its clear he feels strongly about his complaint and I would like to thank him for the time and effort he has spent in bringing his complaint. However, I hope I have been able to explain how and why I have reached that decision.

As of 2 September 2024, StoneX told us there was ¥13,905.00 on the account available for withdrawal. StoneX was waiting for a recent copy of his bank statement so the funds could be returned to X. If it hasn't already been repaid, it is for X to supply the bank statement to StoneX in order for it to repay the funds.

My final decision

For the reasons given, I don't uphold X's complaint about StoneX Financial Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 29 August 2025.

Catherine Langley
Ombudsman