DRN-5133934

The complaint

Mr P complains that the way Capital Com (UK) Limited ("CC") operated his spread betting account has caused him losses. In particular he says the way in which he's able to trade when under a margin call is unclear and unfair and resulted in trades being closed out which shouldn't have been.

What happened

Mr P had a spread betting account with CC. In January 2024, his open trades were closed by CC, as Mr P's margin coverage (the value of his account relative to the margin required to keep his trades open) fell below the level CC required. Mr P complained. There was further correspondence between Mr P and CC about his complaint, and then Mr P came to our service. As different points have been raised at different times, rather than covering this in chronological order I shall summarise the overall arguments of the parties as they now stand.

Mr P has said:

- One of his trades closed due to a spread error, if it wasn't for that error his other positions wouldn't have closed either and he wouldn't have suffered the losses he did.

- He was able to use CC's "hedging mode" where he could open a trade in the opposite direction to an existing open position, even when he was under margin call. This conflicted with information on CC's website which said once his margin was less than 100% he shouldn't be able to open new trades.

- CC's account manager didn't understand the way hedging mode worked.

- CC failed to give him clear and fair information about how its products worked, or train its staff to understand them.

- CC provided the wrong terms when he complained, and then it agreed to pay him compensation that day. When he called back with more questions it didn't pay what it had agreed. It then took too long to issue a formal response.

- His positions were closed only due to the spread between the bid and offer price of the instrument he was trading. This spread cost let his equity drop below the required level, which CC shouldn't have let happen.

- CC didn't allow him the opportunity to upgrade to a professional client account which would have reduced the spread and removed the margin close-out level, avoiding his losses.

- The fact CC has offered compensation shows it must have done something wrong.

CC's position is:

- There were to technical issues, faults, or errors in its systems with regard to Mr P's trades or account.

- Once a client falls below 100% margin requirement, they can't open new trades which increase their exposure. Trades entered using hedging mode which reduce exposure are able to be placed as long as the result of the trade is a margin coverage above 50%.

- Shortly after Mr P placed a hedging trade on the day in question, his account margin coverage dropped below 50% and so CC closed his trades in line with its terms.

- It acknowledged the delay in its response. It offered, as a goodwill gesture, to refund the spread cost of a number of trades, as well as a total of £600 on top – in total it offered to pay Mr P £685.66 to settle the complaint.

Our investigator thought CC's offer was fair. She didn't think CC had breached any of its own policies or any of its regulatory or other obligations towards Mr P by letting him open the trades he did. She thought CC had reasonably closed Mr P's trades under the relevant terms of his account. And she thought the compensation CC had offered was fair and reasonable in the circumstances.

Mr P remained unhappy and thinks CC should compensate him for the losses suffered on the trades it closed in January 2024. He asked for an ombudsman to decide the matter.

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.

The heart of this complaint is that Mr P thinks CC allowing him to open hedging mode trades when under margin call has caused his losses – in large part due to the spread cost. I'll cover this in more detail below, but will first address some of the other issues raised in this complaint.

At this point I'd note that I've summarised the submissions of the parties in far less detail than they were provided. And in my decision I won't address each and every point raised – that isn't to ignore anything that's been said or because I haven't considered everything. But the purpose of my decision is to give my overall conclusions on what I consider to be fair and reasonable in the circumstances of this complaint, and my reasons for reaching those conclusions.

I don't draw any adverse inferences from the goodwill offer made by CC. It's perfectly reasonable for a firm to want to offer something in order to maintain a customer relationship and I don't think it's indicative of any wrongdoing on CC's part.

I don't think CC did anything wrong by not offering to upgrade Mr P's account to professional status. Professional client is a regulatory designation, only available to those meeting certain criteria. A request to upgrade needs, under the rules, to come from the client and not the firm. So I don't think that by treating Mr P as a retail client CC has treated him unfairly or left him exposed to greater losses.

Mr P's main complaint here is that CC is at best unclear, and at worst in breach of its own policies, with the way Mr P was able to trade using its hedging mode while his account balance was close to the 50% margin coverage level.

Mr P's positions were either long or short – meaning he'd profit by the underlying market moving up or down respectively. If Mr P wanted to reduce his exposure to the market movements, he could either completely or partially close a given position. But CC also offered what it called hedging mode – where a client could open an equivalent opposite position (so a short position corresponding to an existing long position or vice versa). This would remove or reduce the market exposure – because if the market moved then one position would gain and the other would lose in equal measure.

Such hedged positions would still potentially have an impact on a client's overall account position though.

The equity in Mr P's account was based on a combination of the cash he had on deposit and the current value at any given time of his open positions. The open positions were valued against the price available to close them out. So for a long position it would be valued against the bid price (the best available price to sell) and for a short position against the offer price.

His account value was then constantly being assessed against the margin required to support his open positions.

Where Mr P used hedging mode, each pair of positions would be being valued against the bid *and* offer of the underlying market. So to close both positions Mr P would in effect be paying the offer price and simultaneously selling the bid price. This is the spread cost.

This is noted in the page on CC's website detailing hedging mode, where it says that *"By using the hedging mode you have locked in the profit or loss at the time you open up the opposing position. Some people would rather wait for a clearer direction from the market before opening up just one single position. Plus of course you have paid the bid/offer spread on both positions."*

As I've noted above, Mr P's account value was being assessed against the margin requirement for his positions. Under the terms of his account, when his account value reached 50% of the margin requirement, CC would initiate its close out policy, and close his positions until the account value was high enough again. This 50% level was in line with the regulatory requirement set out by the FCA.

CC also told clients on its website that it would let them know when their account value fell past both 100% and 75%. Mr P has provided a screenshot which also says that under the first margin call when an account passes 100% of the margin requirement *"You cannot open new trades or place pending orders"*.

Mr P says this means he shouldn't have been able to open hedging trades on the day in question in January 2024, as his account value was below 100%.

CC have since said that the restriction on new trades doesn't apply to hedging mode trades – as the intention of the restriction is to stop clients adding exposure when already on low margin. It says that doesn't apply for hedging trades as they act to reduce exposure – and aren't dissimilar to reducing a position size or closing a position.

While I agree with Mr P that the screenshot he provided isn't clear about the treatment of hedging mode trades, I'm not persuaded that's caused any of the problems he encountered or losses he suffered.

I'm satisfied it was for CC to set its policy about what trades clients could open when, and I don't think the absence of mention of hedging mode trades in that one page detailing margin call procedure means CC can't stand by its policy to let clients open hedging trades under margin call. I'm also not persuaded that this policy inherently exposed clients to additional risk or breached any of CC's regulatory obligations.

I'm also satisfied that whatever that page said, Mr P would have known he could open such trades under margin call precisely because he did in fact do so. So even if the information on that page had been clearer, I'm not persuaded Mr P would have done anything differently.

Mr P has said that allowing clients to trade in this way is unfair because the effect of the spread cost means an increased risk of breaching the 50% limit and suffering a margin close out (as happened to him). I don't agree.

CC doesn't have any obligation to prevent Mr P breaching the 50% margin requirement. CC's terms are clear that trading decisions are for Mr P alone. And as I've detailed above I think Mr P ought reasonably to have understood how the hedging mode worked (that his trades would be valued against the bid and offer) and he would have known the position of his account. So it was for him to decide how to manage his account – whether to open a hedging trade, close an existing position, add more funds, or do nothing. I don't think any of those options would inherently increase the risk of Mr P suffering losses, that would be dictated by the size of the bid/offer spread on the instruments he was trading and the movement of the underlying market. I don't think it was unreasonable for CC to offer that range of choices for how Mr P wanted to manage his account.

It follows that I don't think it would be fair to hold CC responsible for the consequences of the choices Mr P made. While I agree with Mr P that one page regarding margin call is silent on the hedging mode implications, I'm also satisfied that within the terms of his account and on CC's website he was informed, clearly, that:

- It was his responsibility to monitor his account and manage his positions with regard to the margin coverage.
- If his margin coverage fell below 50% CC would close out his trades.
- He could reduce his exposure by closing positions or by opening hedging trades.
- If he opened hedging trades, he'd be paying the spread cost and exposed to both sides of the position being priced against the bid and offer.

Ultimately I don't think CC had as much responsibility for Mr P's account and its management as he's suggested. I find that it operated its services the way it said it would and the way Mr P had used them in the past. I don't think Mr P was misled or that he made a trading decision he wouldn't otherwise have done based on incomplete information. So I find that any losses Mr P incurred were simply a result of the market movements and pricing of his positions. I therefore don't think CC needs to do anything to compensate Mr P for those losses.

In light of issues with its timeliness of complaint handling, and as a goodwill gesture, CC has offered a total of £685.66 to Mr P to settle the complaint. In all the circumstances I'm satisfied that's fair.

My final decision

My decision is that Capital Com (UK) Limited must pay Mr P £685.66 if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr P to accept or reject my decision before 24 April 2025.

Luke Gordon
Ombudsman