

The complaint

Mr C complains that IG Markets Limited is responsible for the financial losses he suffered operating his Contracts for Differences (CFD) trading account. He says that IG Markets Limited failed in its duty of care to him, given his vulnerabilities and incorrectly classified him as an elective professional client.

What happened

Mr C opened his account in November 2009 after completing an appropriateness assessment. This showed Mr C had, by that stage, “frequently” traded OTC derivatives and shares. He had also traded bonds, exchange traded derivatives and had both professional qualifications and a relevant role in the financial sector.

In terms of his circumstances, he declared earning over £100,000 and savings of over £100,000.

Mr C traded frequently on this account and in December 2017, applied for an elective professional client account. This involved giving up certain protections, including negative balance protection and certain restrictions on the amount of leverage available to retail clients.

IG considered that Mr C met the relevant test set out in the rules – namely that he had made at least ten trades per quarter, of significant size, in the previous four quarters and had worked in a professional position that gave him knowledge of CFDs.

In November 2022 Mr C complained. He said that he had lost over £833,000 since 2009 trading CFDs, and this had left him experiencing severe financial difficulties, including debt accrued across multiple credit cards and overdrafts, in order to fund his trading.

He outlined specific areas where he felt IG should’ve picked up on his vulnerabilities, including:

- There was a “clear and drastic change in behaviour” that IG should’ve identified – this included a “dramatic and fundamental change” in deposit activity from 2016 onwards, including much higher number of deposits and trading throughout the trading day, not just during market open hours. He said this behaviour should’ve raised red flags with IG. He also said that he had begun depositing more with credit cards. Ultimately, he said that “IG had a responsibility to take proactive measures” to protect him in the circumstances and failed to do so.
- Mr C had also shown a “gradual rise in annual transaction volume”, trading with far more frequency than he had done when he first opened the account. He said that the deposit and transactions were “clearly symptomatic of a problem gambler rather than someone trading to any sort of discernible, consistent strategy”. He said there was never any intervention to protect him, or place limits on his account.
- IG incorrectly classified him as an elective professional client. He said he didn’t

qualify for any of the criteria.

IG looked into his complaint but didn't think it had done anything wrong. In summary it said:

- The terms of the account were that IG acted on an execution only basis. Mr C passed the appropriateness assessment and IG therefore concluded that he had sufficient knowledge and experience to understand the risks involved in trading CFDs.
- Furthermore, at various points during the life of the account, Mr C was required to update information. This showed that Mr C's income rose as high as £600,000 at points and savings as high as £1.5million, which meant that his account didn't flag on any of its systems. IG said that relevant rules entitled it to rely on the information Mr C gave it about his circumstances.
- IG didn't see any evidence, in any of the calls its operatives had with Mr C during the life of the account, that he raised any concerns about his situation or said anything that would have indicated he suffered from a vulnerability such as a gambling addiction. IG said that it had many clients who engage in a high frequency trading strategy.
- IG also didn't agree that the timing of the deposits was relevant, given that Mr C initially traded predominantly forex and indices which were 24-hour markets – any increase in his deposits or number of trades was a result of Mr C's trading strategy and not something IG had any control over. Ultimately, although his deposits and trading activity had increased year on year, his activity remained consistent with the wealth information it had on file for him.
- In relation to Mr C's elective professional client classification, it said that he met the criteria in the rules. He had placed 30 significant sized trades per quarter of the previous year and had worked at a bank as Head of Structured Finance, involved in "complex cross-border structures with FX and currency and interest rate swaps".

Mr C remained unhappy and referred his complaint to this service. One of our investigators looked into this complaint but didn't think it should be upheld.

In summary she felt that IG had followed the appropriate processes in both opening his account and accepting his application to be reclassified as an elective professional client. She also considered that there was nothing in the way he managed his account that meant that IG needed to stop him trading or close it without him asking.

She considered the contact he had with IG, including a number of phone calls, and concluded that there was nothing he said which would've indicated to IG that he was experiencing a vulnerability. She didn't think the deposit activity, or his trading times would've indicated to IG any particular issues with Mr C's account.

Mr C didn't agree and asked for an ombudsman's decision. He said:

- He didn't agree that IG had complied with the relevant rules when he opened his account. He said IG relied on what he had declared in the application without asking for any supporting evidence. He said he didn't think that being able to answer "a few questions" without any supporting evidence ought to be considered "sufficient information". He said if he had to open a bank account or obtain a mortgage, he'd

have to prove who he was or prove his income.

- The same was true of his application to become an elective professional client. At no point was any “corroborating evidence or information sought or provided to justify the upgrade”. IG had simply taken a “gambling addict’s word” and drove him to more suffering and financial loss.
- He didn’t agree that there were no signs of gambling for IG to have identified. He said that whilst this might be true of each element taken individually, “the sum of behaviours do clearly indicate this”. He said there was a “clear demonstrable change in behaviour over time and the escalating losses and changes to deposit frequency and method (from debit card to credit card) are quite clear to anybody who wishes to see them”. He said IG should have had controls in place “to identify this clear change in behaviour which would have allowed them to act accordingly”.

I issued a provisional decision in November 2024. In it I set out the relevant standards that applied at the time:

The relevant standards

The Financial Conduct Authority’s (FCA) Handbook sets out the FCA’s expectations of firms, including guidance and regulations, as well as the high-level principles which it expects all firms to follow. These are called the Principles for Businesses, and ‘are a general statement of the fundamental obligations of firms under the regulatory system’ (PRIN 1.1.2G).

Principle 6 is of particular relevance to this complaint. It says:

- Principle 6 – Customers’ interests – A firm must pay due regard to the interests of its customers and treat them fairly.

FCA Conduct of Business rules – COBS

COBS 10.2 – Assessing Appropriateness: the obligations

In 2009, COBS 10 applied to the type of service Mr C was asking IG to provide to him. This required IG to carry out the following assessment:

- (1) *“When providing a service to which this chapter applies, a firm must ask the client to provide information regarding his knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded so as to enable the firm to assess whether the service or product envisaged is appropriate for the client.*
- (2) *When assessing appropriateness, a firm:*
 - (a) *must determine whether the client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service offered or demanded;*
 - (b) *may assume that a professional client has the necessary experience and knowledge in order to understand the risks involved in relation to those particular investment services or transactions, or types of transaction or product, for which the client is classified as a professional client.”*

COBS 10.2.4 said:

“A firm is entitled to rely on the information provided by a client unless it is aware that the information is manifestly out of date, inaccurate or incomplete”.

COBS 10.2.6 said:

“Depending on the circumstances, a firm may be satisfied that the client's knowledge alone is sufficient for him to understand the risks involved in a product or service. Where reasonable, a firm may infer knowledge from experience”.

COBS 3.5.3 – Elective Professional Clients

This section sets out what firms must do in order to classify retail clients as Elective Professional Clients. Of relevance to Mr C's complaint, I've quoted the below:

- (1) “the firm undertakes an adequate assessment of the expertise, experience and knowledge of the client that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making his own investment decisions and understanding the risks involved (the "qualitative test");*
- (2) in relation to MiFID or equivalent third country business in the course of that assessment, at least two of the following criteria are satisfied:*
 - (a) the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;*
 - (b) the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000;*
 - (c) the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged;*

(the "quantitative test")”

FCA Guidance on vulnerable customers

In February 2021, the FCA produced 'FG21/1 Guidance for firms on the fair treatment of vulnerable customers'.

Whilst all of the guidance is applicable to IG, I've quoted below the sections that I consider most relevant:

Ensuring frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability

3.9 Firms should ensure that staff have the skills and capabilities to recognise vulnerability and respond appropriately to individual consumers' needs so they can treat them fairly. Staff should be capable of recognising and responding to need:

- Where the consumer has told the firm about a need
- Where there are clear indicators of vulnerability or
- Where there is relevant information noted on the consumers' file that indicates an additional need or vulnerability.

3.10 Frontline staff should be capable of exercising additional care to adapt to the consumer's needs and be able to exercise judgement on when it is necessary to do so. Where possible, staff should be able to respond to the consumer's needs promptly so that action is taken to ensure harm does not occur or become more severe. Adapting to consumer's needs may mean referring them to a colleague or specialist team that is able to help.

3.11 Staff should take steps to encourage disclosure where they see clear indicators of vulnerability (see below) but are not expected to go further than this to proactively identify vulnerability.

Examples it gave:

Signs and phrases to actively look out for when engaging with customers (mainly from FCA Occasional Paper 8 practitioners pack)

Changes in payment behaviour such as:

- payments stopping suddenly
- late or missed payments
- regular unarranged overdrafts and charges
- unusual activity on an account

Phrases such as:

- I can't pay
- I'm having trouble paying
- mention of breathing space/debt moratorium or contacting a debt advisor
- I can't read my bill
- I can't understand the letter you sent me
- I can't hold on all day
- I hate these press buttons

Staff could also be on the lookout for:

- shortness of breath or signs of agitation
- asking for repetition (a sign that the customer is not retaining information)
- signs that the consumer has not understood or signs of confusion
- mention of medication

Product and service design

(...)

4.7 An example of poor design that could result in harm to vulnerable consumers is contracts for difference (CFDs) offered to retail consumers. This can include financial spread bets. These complex, leveraged products are offered through online trading platforms. Before we imposed restrictions on how CFDs were sold to retail consumers, their projected returns made these high-risk, speculative products seem attractive.

However, many consumers were unable to understand the complexities of the products or the impact of the leverage on the likelihood of the products making a profit. This put consumers, particularly those with low financial resilience, at risk of significant financial losses that they would be unable to absorb.

(...)

4.30 Failure to recognise when consumers are struggling to make decisions or act in their own interests and provide the right support, can result in harm. For example, cognitive disabilities, mental health conditions or addiction can lead to harmful financial decisions, vulnerability to scams and buying unsuitable products.

(...)

4.33 Frontline staff should have the skills and capability to recognise characteristics of vulnerability and respond to individual consumer needs where a consumer has shared a need or whether there are clear indicators of vulnerability. See Chapter 3 where we describe staff skills and capabilities in more detail.

4.34 Firms should be proactive in offering support. They should enable consumers to tell them about any additional needs they have so they can deliver appropriate customer service. This includes in digital or paper-based customer journeys where there may be no direct interaction with frontline staff.

I then set out my provisional findings:

My findings

“In looking at the evidence available, I’m satisfied that it was fair and reasonable for IG to have concluded that trading CFDs was appropriate for Mr C in 2009. The evidence I’ve seen shows that IG carried out an assessment, pursuant to COBS 10. As part of that assessment, it obtained information about Mr C, and I’m persuaded it was fair and reasonable for IG to conclude that the information Mr C gave it showed he had sufficient knowledge and experience to understand the risks involved in trading CFDs.

I understand why Mr C has made certain analogies that he thinks meant IG should’ve asked for corroborating evidence at the time, but I’m satisfied this was neither required by the rules nor in line with industry good practice at the time. I’ve set out the relevant rules above which, in my view, show that when Mr C declared that he had frequently traded CFDs, among other investments, IG was entitled to rely on this answer and assume that he had the necessary experience to understand the risks involved.

And whilst I understand this will also disappoint Mr C, I am of the same opinion in relation to his application to be reclassified as an elective professional client. I should say firstly that Mr C didn’t need to meet all the criteria set out in COBS 3.5. He needed to meet the “qualitative” test and then two of the three “quantitative” criteria.

In terms of the qualitative test, given everything IG knew about Mr C, as well as his length of time trading with it and his professional experience, it was fair and reasonable for it to

conclude that he was capable of making his own investment decisions and understanding the risks involved – and therefore to conclude that Mr C met the “qualitative” criteria.

In relation to the “quantitative” criteria, IG also had information about how Mr C had traded – which meant that it already knew, as part of this assessment, that Mr C had traded in the relevant size and frequency to satisfy that limb of COBS 3.5. So here too I’m satisfied it was fair and reasonable for IG to conclude that Mr C met this element of the test.

Next, Mr C needed to either have a portfolio of the relevant size, or work or have worked in the financial sector for at least one year in a professional position which required knowledge of the transactions or services envisaged. As part of the assessment, Mr C declared that he worked as Head of Structured Finance at a large bank and, specifically, that he was involved in “complex cross-border structures with FX and currency and interest rate swaps”. I’m satisfied it was fair and reasonable for IG to conclude that this role satisfied this limb of the test and gave Mr C the required knowledge. And I’m not persuaded that it was unreasonable for IG to have not asked for further information. As I’ve noted above, COBS specifically allowed IG to rely on the information Mr C was giving it. And for this type of assessment, the regulator required IG to obtain detail about the position – which Mr C provided.

Mr C specifically outlined his role, his main functions and how they related to the type of service IG was offering him. This is the type of information the regulator required firms to obtain. So, in my view it wasn’t necessary for IG to have also decided to ask for documentary evidence that he actually did in fact occupy that role. It was entitled, in this instance, to rely on what Mr C was saying.

In terms of Mr C’s vulnerability, it’s clear to me that the rules didn’t require IG to behave in the “proactive” manner he and his representative believe it needed to. The guidelines required staff to be able to identify vulnerability based on what Mr C was telling it or, in some instances, his behaviour. It outlined some of those circumstances. But when the guidance talks about firms being proactive, in my view it talks about it in the context of proactively “offering support” in response to consumers telling “them about any additional needs they have so they can deliver appropriate customer service”.

I’m not persuaded any of the standards I’ve quoted above required IG to proactively monitor Mr C’s account between 2009 and 2022 and second guess his trading strategy or the financial information he was disclosing to it – or assume he had a vulnerability because of his losses or his frequent trading.

I say this bearing in mind that none of the direct contact from Mr C would’ve suggested that he was experiencing a vulnerability, either by incurring significant debt due to his substantial losses or due to his gambling addiction.

None of the behavioural examples which the FCA gives in the guidance were expressed by Mr C in his calls with IG. So in terms of the guidance I’ve quoted above, I’m satisfied frontline staff didn’t miss or fail to act on any clear signs from Mr C in his contact with the firm – and it isn’t in dispute that he never asked IG for support or explained to it he had needs or a vulnerability that IG needed to be aware of.

I’ve then considered Mr C’s trading behaviour and I agree with the investigator that there wasn’t anything that marked Mr C out as any different to the thousands of other traders IG would’ve had at any given point in time between 2009 and 2022. As IG discloses on its website, 69% of retail investors lose money when trading spread bets and CFDs, so the fact that Mr C was making losses, even significant ones, was not atypical for this type of high-risk trading.

And even Mr C's acceleration of both deposits and trading volume would not have been unusual for a trader who had been doing it for as long as he had. On this I note that one of the quotes from Mr C's representative about his vulnerability is in relation to the risk of harm as a consequence of this type of trading. But the FCA specifically related this risk to the fact that, as I've quoted above, many consumers were unable to understand the complexities of CFDs or the impact of leverage on the likelihood of these products making a profit. This was particularly difficult for consumers with low financial resilience.

But Mr C didn't obviously fit into any of these categories. The information he disclosed to IG showed that he had a high income and a high level of savings, and throughout the years Mr C was regularly required to update this information. And he had clearly demonstrated, both when he opened his account and throughout the operation of it, that he fully understood CFDs, by using the tools available to him in order to manage risks. So, whilst he suffered significant losses, these were trading losses which the majority of clients experience. But there was nothing else that made Mr C stand out as a consumer who was "clearly" suffering from a vulnerability that IG was failing to identify or manage.

Furthermore, it's important to highlight that IG was upfront, throughout the time Mr C traded with it, about the risks associated with trading CFDs – and about the tools it offered to manage those risks. Whilst I understand why Mr C considers that IG should've taken more steps than it did, I'm not persuaded it missed opportunities to identify a vulnerability or otherwise better support him in using its services. In my view, Mr C was ultimately responsible for the way he traded and, consequently, for the losses that he sustained as a result of those trades.

Finally, I think it's important that I explain that even if IG had concerns about Mr C (and, as I've said, I don't consider it unreasonable that it didn't), it would not have simply closed or limited his account. The guidance from the FCA indicates that IG's first step would've been to contact Mr C by firstly inquiring about his circumstances and whether he was, indeed, suffering from a vulnerability and secondly, by offering him support – that support would not have necessarily involved limiting access to its services or otherwise unilaterally stopping him from trading (although it could have).

Looking at Mr C's behaviour throughout the relevant time period, including the multiple contacts he had with IG, I think it's unlikely he would've disclosed to IG that he was experiencing financial difficulties or that he was addicted to gambling in a way that would've allowed IG to step in and limit access to its services. And it's clear to me, given his volume of trading, that he would not have taken up any suggestion to pause or interrupt his trading.

For all these reasons, I don't currently agree that IG has done anything wrong or that Mr C is entitled to any compensation."

IG and Mr C, though his representative, acknowledged receipt of the provisional decision but provided no further comments in response.

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 reconsidered the matter, I see no reason to change my provisional findings. I

completely understand Mr C's and his representative's strength of feeling, and I sympathise with the impact such significant financial losses have had on them. However, I'm not persuaded, for all the reasons I've set out above, that it would be fair and reasonable to uphold this complaint and conclude that IG did something wrong.

My final decision

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 C to accept or reject my decision before 8 January 2025.

Alessandro Pulzone
Ombudsman