DRN-5423811

The complaint

Mr J complains that IG Markets Limited ('IG') suspended a spread bet position he held, increased the margin requirements to hold it and charged him overnight funding charges on a position he can't currently close. He's also unhappy IG hasn't paid him interest on the cash balance of his account.

What happened

Mr J has a spread betting account with IG where he had 26 open spread bet positions speculating on price movements of a listed company I'll refer to as 'A'. In late 2022, A was suspended from the exchange awaiting the result of a takeover, which to date hasn't completed. The positions Mr J held were what IG describe to be 'daily funded bets' ('DFBs'), which are spread bet positions which remain open until closed, rather than one which has a fixed expiry date.

In response to A being suspended by the exchange, IG suspended Mr J's spread bet positions in it. This meant he couldn't close the position and continued to incur overnight funding charges for holding the position – which Mr J says is costing him around £300 each month and is causing him increasing financial harm.

Initially IG increased its margin requirements for Mr J to hold these positions from 25% to 30%. Then on 18 July 2023, IG increased the margin requirements further to 100% which Mr J says he met by selling assets within his ISA.

Mr J discussed this matter with IG and as he remained unhappy with what was happening, he complained to the firm. In summary he said that it wasn't fair IG continued to charge overnight funding charges for what in his opinion was a risk free position where it was fully margined. Mr J also said IG was holding onto around £40,000 of his cash without paying him interest he feels should be due.

IG considered his complaint but didn't agree to uphold it. In summary it said:

- It held a hedge to cover Mr J's position and as A's shares hadn't been declared worthless, it continued to do so.
- It was passing on overnight funding charges to Mr J which it was incurring to hedge his position.
- As the margin it had to pay to hedge that position increased due to the suspension, it took the same action on Mr J's.
- The terms and conditions allowed it to increase the margin and continue to charge overnight funding charges.

As Mr J didn't agree he asked our service to look into what happened further. One of our Investigators considered the complaint and upheld it. He said:

- IG hadn't evidenced the cost it said was being passed to Mr J.
- Mr J's position was fully funded and so it wasn't fair to pay overnight funding charges as he in effect was no longer borrowing from IG to finance the positions.

- To put things right IG should reimburse fees since the margin was set to 100% and stop charging Mr J further overnight funding charges.

Mr J agreed with the outcome but also asked our Investigator to consider the position around IG not paying him interest on the cash he had deposited with IG. Our Investigator responded to this point saying the recent FCA 'Dear CEO' letter on this point was addressed to investment platforms, which isn't the sector IG operates in. As that meant the expectations set in that letter didn't apply to IG, it wasn't treating him unfairly around that point.

IG responded to our Investigator to say the hedge it referred to was against its total exposure, not just Mr J's. This meant it couldn't provide the evidence our Investigator wanted to see. Its position remained that it fairly applied its terms around continuing to charge for suspended positions. IG provided further information which wasn't available to our Investigator.

As an agreement couldn't be reached, the complaint was passed to me to decide. As I reached a different conclusion to our Investigator I issued a provisional decision to allow the parties an opportunity to respond to my outcome where it differed to the Investigators.

In my provisional decision I said:

> **"The relevant considerations**
>
> Mr J's relationship with IG
>
> When Mr J opened his account with IG he would've agreed to its terms and conditions. While I've not seen the signed agreement, I think it's likely he agreed to them otherwise IG wouldn't have provided him with the services it has. The terms and conditions are relevant here as this document sets out the agreed roles and responsibilities between Mr J and IG. As is IG's risk disclosure notice and its separate fees and charges document, which both form part of the overall terms and conditions of its service.
>
> The terms set out at 2(2) and (3) that when Mr J opens a position with IG, it will be doing so acting as principal rather than agent. This means it isn't finding an opposite trader on the market to match his position with, they would be opened with IG as the counterparty. The spread bets Mr J placed then are directly with IG who would be liable to settle successful bets with Mr J, as is he to it for those which are unsuccessful.
>
> IG's fees and charges
>
> IG provides information on its website about how it profits from positions like Mr J's. This is relevant here as it provides some context into how IG operates its spread betting business and why it has in place the charges it does. IG says on this website that it primarily profits from the spread it sets when a position is opened and closed, and some other fees which would include overnight funding charges. In its capacity as principal, it will mostly be able to match its clients long and short positions. It does this to provide assurance that positions can be settled without risking IG's cashflow and that it generally won't profit or loss from its client's positions. However, there are times where it can't offset positions sufficiently and in those circumstances IG will hedge its risk exposure in the underlying market.
>
> IG sets out its fees for placing and maintaining positions at 4(1) of its terms, referring to a separate document titled 'IG Costs and Charges' and a dedicated part of its website. Both of these provide information about the fees and charges for the various products IG offers.

On page three of IG's fees and charges document referred to in these terms, regarding spread bets on shares it says:

"**The costs and charges**

When you open a daily funded bet… on one of our share markets, you'll pay:

1. Our spread (the difference between the bid and ask prices) on spread bets, or our commission on CFD trades
2. The market spread, which can vary dependant on market conditions
3. An overnight funding charge (if you hold your position past 10pm UK time)
4. Borrow (if shorting a share market)

Formulae

1. **Overnight funding charge = nights held x (market closing price x trade size x (2.5% +/- LIBOR)) / 360**

If your long, you pay LIBOR (or the equivalent interbank rate). If you're short, you receive it."

An example is provided showing the impact of the different factors in the formula above and demonstrates how the calculation works.

Further detail in addition to the above is provided on the 'Costs and charges' section of IG's website, which as mentioned above its terms and conditions refer to in 4(1). This provides the following detail:

"**Overnight funding**

Overnight funding is the charge you pay for keeping daily funded bets (DFBs) and cash CFD positions open past 10pm UK time; we'll make an interest adjustment to your account to reflect the cost of funding your position.

You don't need to pay overnight funding for futures or forwards, because we build that cost into the spread."

And in the 'FAQ' section:

"**How does overnight funding work?**

When you take spread bet or CFD positions with us, you trade on margin. This means you only pay a deposit to open a position, and we in effect lend you the rest of the money required. If you close your position on the same day, you won't pay a funding fee. If you keep it open overnight, you'll pay small fee to cover the cost of the money you've effectively borrowed.

For share and index trades, our funding fee is comprised of our admin fee, plus or minus the interbank rate for the currency in which your trade's underlying market is denominated (depending on whether your position is long or short).

…

[Other trade types]

…

For futures markets there's no overnight funding fee, because the cost of funding is built into the spread."

There are other similar references to overnight funding charges which aren't worth repeating given they provide the same information. All of these set out that such a charge applies to positions held after 10pm and the basis is due to the costs IG incurs for maintaining DFB spread bets.

The above then makes it clear that when opening a DFB spread bet with IG there are several charges that can be incurred. Not only would Mr J be paying IG a fee through its spread when opening the position and that a charge would also be incurred for holding a position past 10pm. IG clearly set this structure out, that it charges fees to reflect to costs of funding the position overnight and the factors that influence that charge. I'm satisfied it did so in a clear, fair and not misleading manner and so I don't think it's unfair for IG to include these charges, but it must apply them fairly to the circumstances at hand.

<u>Suspension and margin changes</u>

The significant terms around suspension say:

> 25(1): "We reserve the right to Suspend a specific Bet that you have open with us.."

And

> 25(2): "If at any time **trading is suspended in any Instrument that forms the subject of a Bet, the Bet in question will also be Suspended** from operation unless we are able to continue to make prices for the Bet based on prices in a different but related Underlying Market that is not suspended from trading. If Suspended, the suspension price of the Bet unless re-valued by us as set out in this Term 25, for the purposes of Margining and otherwise, will be the mid-price quoted by us at the time of suspension. **For the avoidance of doubt, the fees and charges detailed in Term 4 will continue**" (My emphasis)

Relating to margin increases, at 15(9) this says:

> "Subject to Applicable Regulations, we will be entitled, at any time, to increase or decrease the Margin required from you on your open Bets or to change the credit arrangements for your account… Any increase to Margin levels will be due and payable immediately on our demand… We will only increase Margin requirements or change the credit arrangements for your account where we reasonably consider it necessary, for example but without limitation, in response to or in anticipation of any of the following:
>
> (…)
>
> (g) a change in the margin charged by our hedging counterparties or the margin rules set by the relevant Underlying Market…"
>
> Further information is also provided in IG's risk disclosure document which relating to the spread betting services, includes the following statements:

> "…Under certain trading conditions, it may be difficult or impossible to liquidate a position."

And:

> "… we are entitled to increase margin rates at short notice. If we do so, you may be required to deposit additional funds into your account to cover the increased margin rates."

The above in summary allows IG to suspend a spread bet position where the underlying asset it relates to becomes suspended. In those situations, these say charges will continue to apply, and Mr J may not be able to close the affected position. And that IG are also able to increase the margin rates and would likely do so should its counterparties increase the margin IG is paying on its related hedged position.

Terms like these are common throughout the industry and I'm satisfied that IG has set them out in a clear, fair and not misleading manner from the outset. As it has done so, I don't think it's fair to say IG would be acting unfairly by applying them, so long as they are being applied fairly in the circumstances.

Suspension of Mr J's position in A

It's clear from the information given by the exchange A is listed on that it was suspended, as it remains to be.

In suspending positions in A, IG is reflecting the underlying position of A, which its terms as set out above allow it to do. Given IG is following what is happening in the underlying market, I'm satisfied it wouldn't be unreasonable for IG to apply its terms to suspend Mr J's position. I say this because there is no active trading market for A while it's suspended, and IG can't reasonably find a reliable price for the position during that time. IG's terms fairly allow it to do this, and I've not seen it acted unreasonably in doing so.

Mr J is unhappy IG is only offering a closing price of zero while the position is suspended. Given there is no current trading price, I don't consider it unreasonable IG can't offer another value where the underlying value or future status of the asset is uncertain until the suspension is resolved. As well as what I've said above, IG's terms do clearly explain this as a risk of using its spread betting services.

In my opinion then I can't reasonably say IG unfairly suspended Mr J's position.

Increasing the margin requirements

As mentioned above, IG discloses on its website that it will look to match investors in opposite positions in order to manage its overall risk exposure to a particular asset, here shares in A. In situations where that balance falls outside its risk tolerance, IG says it may open a hedge to offset the remaining risk as much as it can.

In Mr J's situation, IG says its total exposure to A was beyond its risk tolerance and that it managed that entering into three separate leveraged swap positions with different counterparties to hedge its exposure to A, which included Mr J's position. Hedging client positions in this way occurs across the industry and is used by firms to mitigate the impact from its clients' losses on its business. Which as IG disclosed, tends to only happen when its clients' positions don't sufficiently offset each other.

Unfortunately, following A's suspension the counterparties for IG's hedge all increased the margin requirements to maintain it, eventually to 100%. IG has evidenced that this change occurred, and that it was required to deposit significant capital to meet the increased requirements. That additional margin is a cost IG is bearing in order to maintain the position Mr J opened with it. IG sought to cover that cost by increasing its own margin requirements which it did for Mr J's position.

In my opinion it isn't unreasonable IG increased Mr J's margin requirements where its counterparties to the hedge took that same action on IG. It fairly caters for this in its terms and is passing on a cost it is incurring only because of the position Mr J has entered into, which I don't consider to be unreasonable. It was then for Mr J to decide for himself if he considered funding the margin requirements was right for him to do in the circumstances.

I can see at the time it would've been attractive for him to continue to hold the positions where prior to the suspension he was in a profitable position making some quite large gains. There were however risks to continue to hold a position suspended pending a takeover where the result of that could significantly affect the value or existence of the underlying shares in A, as well as there being no certain timeframe for it being resolved. All these factors could impact the future value of Mr J's position in an uncertain manner. One of those risks have come to light where the pending takeover has been in place now for some time, longer than I expect Mr J reasonably considered.

Overall, I'm satisfied Mr J had enough information to understand complying with the margin increase wasn't an action he had to take, with the alternative being closed out at zero. Mr J then had the difficult decision to either close his positions out at zero incurring a total loss on his position – subject to negative balance protections – or increase his margin to 100% with no assurance of when or if the suspension would be lifted. Mr J decided to pay the required amount to satisfy the increased margin requirements and keep his position open.

It follows I'm satisfied IG wasn't acting unfairly by increasing the margin requirements where the terms fairly allow IG to take that action where it has evidenced the increased margin it was required to pay to maintain the hedge for Mr J's position. I'm also satisfied it gave Mr J an informed choice whether to deposit the required funds to maintain his position, of which the onus would be on him to decide given the execution-only nature of IG's service.

Application of overnight funding charges

As mentioned above I'm satisfied IG fairly set out the fees for its DFB spread bets, which Mr J held in A, specifically that it will charge a fee on positions held overnight. I'm also satisfied it was clear the reason for these charges was to cover the costs IG incurs for financing Mr J's position.

The formula set out above considers the number of days the position has been opened, the market closing price and the size of the position. A benchmark rate is then applied resulting in the overnight funding charge to be applied.

The charge incurred then is highly dependent on the total position size – it's 'notional' value. These charges tend to be relatively small, as IG describes it to be in the FAQ cited above. Mr J's position was however very large where he was speculating a total of £1,684 per point of movement (per 1p) in a share held on an exchange for younger and smaller companies, which tend to be more volatile. He also held these positions for a long time, some for more than a year prior to suspension, when these positions are intended to be held for a short period given how IG designs is DFBs compared to other types of positions it offers.

Given the size of the position is a key factor in the calculation of the charge, that would cause the overnight funding charge to be as high as Mr J is currently experiencing. I appreciate IG describes the charge as a ‘small fee’ in the extract above, because typically it is. But where Mr J’s position is more unusual and I’m satisfied IG clearly disclosed the impact of the size of the position has on the charge from the outset and throughout, on balance I don’t think it described the charge in a misleading way.

Mr J feels these charges are unfair where in his view as there is a 100% margin requirement in effect, his position is risk free as its ‘paid up’. While I understand Mr J’s position on this point, I don’t agree. IG is clear in its terms that the overnight funding charge applies for positions held overnight, including suspended positions, and this charge is based on the notional value of the position – not the margined amount. As the cost is taking account of the total value of Mr J’s position, the amount of margin he’s put up for the position has no impact on the charge calculated.

While Mr J isn’t wrong there is a fixed total loss to himself on his position, as the lowest A can fall to is zero which his margin covers, there is still risk which IG is mitigating through its hedge. I say this because not only is the hedge impacted by IG’s other clients’ positions in A, there’s also no limit on how A’s share price may increase in future, which would entitle Mr J to £1,684 per point in such an event. It is this situation, likely among various others, which IG is hedging its overall exposure. That hedge comes at a cost to IG which it only incurs because of the position Mr J asked it to open, which its terms in my opinion fairly allow it to charge for.

IG has evidenced it entered into a swap to provide this hedge to manage the risk of its total exposure to A, which Mr J’s position is contributing to. In maintaining that hedge IG says it is incurring fees, which it describes being in a similar manner to how it charges its own overnight funding charges. As such fees are part of a typical swap arrangement which IG says it’s paying, I’m persuaded IG is incurring fees in maintaining its hedge and it wouldn’t be unreasonable for it to apply the charges where it is only doing so because of the position Mr J entered into. I’m satisfied its terms are sufficiently clear that IG is applying the overnight funding charge to reflect the costs its incurring for financing Mr J’s position, which even though the position is 100% margined, are being incurred through the charges IG is incurring to maintain the hedge.

In summary, on balance I’m persuaded there are costs associated with Mr J’s position and IG then wouldn’t be acting unfairly by passing them onto Mr J through the overnight funding fees it charges. IG sets out in its terms these fees would be due, and remain so in the event of suspension, and IG is still incurring the costs of managing the risk of Mr J’s positions. IG explains these charges cover the costs of financing Mr J’s position, which is taking place through the costs IG is incurring to maintain the hedge it has for its overall exposure to A.

Interest payable on cash balances

I've considered what Mr J has said about IG not paying him interest on his cash he's deposited on margin. Under the rules around holding client money, IG is able to give Mr J notice that it won't pay him interest for his balances. IG has set out this notice in its terms at 18(4).

I note that the FCA wrote to Investment Platforms and SIPP Providers about this matter. IG says it didn't receive this letter as it isn't part of that sector. But whether it was an intended recipient of this letter or not I've still considered its relevance to the points Mr J makes about not receiving interest.

Having carefully considered the circumstances here, I've not seen IG is acting unfairly by not paying Mr J interest on the cash balance of his account. I say this because that cash is being used as collateral for his spread bet positions, which IG say is reserved by its systems causing it to be effectively inaccessible. If Mr J was able to access this money it would have consequences on his open positions given that would likely trigger a margin call, which the situation around the suspension would likely mean his positions being closed at zero and Mr J's total loss becoming crystalised.

In my opinion then IG hasn't acted unfairly by not paying Mr J interest for his funds held on margin.

Summary

I understand Mr J's strength of feeling about what's happened and I sympathise with the very difficult position Mr J has found himself in. It's clear he finds himself the holder of a suspended position of which he is incurring ongoing fees for a continued uncertain period of time at a great cost to him. A burden which is becoming increasingly more difficult for him to sustain and required him to disinvest other assets to fund.

But I have to be fair to both parties in reaching my decision. And from everything I've considered, I can't reasonably say IG has treated Mr J unfairly in the manner it suspended his position, continued to charge him fees, increase his margin requirements or paying him interest for his funds held on margin."

In response to my provisional decision, IG responded to say it had nothing further to add. Mr J, in his response, said the following:

- He didn't feel IG properly explained the risk it was mitigating to him.
- IG gave incorrect information about the options available to him to close his positions and that the option to close with no gain or loss wasn't actually available.
- His complaint is an unusual one and the terms and conditions I referred to were clearly not envisioned with longer term suspensions.
- The length of time this issue has gone on hadn't been considered.
- My provisional decision only restated the terms and conditions and how the margin was calculated.
- He hadn't been provided with the detail of the charges IG is incurring for hedging his

position.

- It is unfair for IG to increase his margin to 100%, charge him fees for suspended positions but not pay him interest on his funds on deposit.

Since I issued my provisional decision, the suspension of the underlying shares affecting Mr J's spread bet positions had been lifted.

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.

I'd like to reassure Mr J that I recognise the unusual nature of his complaint and have given careful consideration to the points he's raised. I do also sympathise with his situation given the losses he's incurred from the suspension and difficult decisions he's had to make to continue to maintain his positions. But even so, having considered matters again as well as the further submissions from Mr J, I've not seen to depart from the conclusions in my provisional decision.

Outside of his comments around information he was given about the impact to him of closing his positions when they were suspended and the provision of the hedge information, I don't have anything substantial to add further to what I said in my provisional decision. While Mr J has commented around my reference to the applicable terms and conditions, those are a relevant consideration given they are the agreement between the parties on their roles and responsibilities under this arrangement. I'm satisfied I've clearly explained that and considered whether they were fairly applied in my provisional decision.

Turning first to Mr J's comments about not being provided with the hedging costs IG is incurring due to his spread bet positions. It isn't for me to seek and provide information for Mr J, it is to determine what I consider to be fair and reasonable in the circumstances of the complaint before me. We had requested those details from IG, but it wasn't able to provide it given it wasn't specific to Mr J. I have my reservations about IG's reasons for not being able to provide information around that. But even so, I was, and remain, satisfied I can fairly determine this complaint without that information.

I say this because given the nature of its hedge, how and when IG discloses the reasons and method for applying its overnight funding charge and the margin it needed to post to keep the hedge in place is sufficient to determine IG is incurring costs to maintain Mr J's positions – as I explained in my provisional decision. IG isn't passing the exact cost to Mr J, and importantly how it explains this charge doesn't portray it does so in such a way. The actual charges IG is incurring then in my view doesn't affect what I've already said about how IG disclosed and applied its charges to Mr J's positions.

Nor do I think it needed need to set out more information than it did about the risks it was mitigating to Mr J. I say this because IG fairly sets out, as I've set out in my provisional decision, it will hedge such positions and that those costs when incurred will be passed to him through its overnight funding charge. It follows then I'm not persuaded IG is obligated to provide Mr J with further information than it did.

On the information Mr J was given about closing his position, as I set out in my provisional decision, I'm satisfied IG had clearly set out from the outset in its terms at 25(1) and (2) that spread bets can become suspended, which can prevent them from being closed out for any value. In the call of 13 July 2023 Mr J refers to between himself and IG, the firm does repeatedly give Mr J the correct information. It told him that his options towards his spread bet positions in A were to either deposit the additional margin requirements to keep his positions open, or close them at 0p and incur a full loss on the positions. IG repeat this stance several times before the call handler returns to suggest he could close his positions at the level he opened them at if he sent email instructions to IG, where its dealing team could carry out that transaction. IG has in its response to my queries on this point, before I issued my provisional decision, insisted there wasn't an option to close at the open levels and so Mr J's only options were to fund the margin requirements or close out at 0p. Which is consistent with what Mr J was told in IG's terms, website and risk disclosure documents, in that call itself and by email afterwards.

I accept IG did give Mr J incorrect information about this towards the end of his phone call with IG. But given IG had provided correct information from the outset, as well as in that phone call until the end of it, I'm not persuaded IG is required to compensate Mr J for one moment of incorrect information among the rest of the correct information provided before, during and after that call.

On the earning of interest on his account balance, I understand Mr J's frustrations around this aspect of this complaint. But I've not seen his further comments provide new information for me to consider. It follows then I'm not persuaded to depart from what I said in my provisional decision on this point.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 23 April 2025.

Ken Roberts
Ombudsman