

The complaint

Mr T complains that over the course of a number of years, VPR Safe Financial Group Ltd trading as Alvexo encouraged him to invest more and more money and advised him to make high risk trades.

What happened

Mr T opened his account with Alvexo in 2021 and traded until November 2022 when he closed the remainder of his trades – this was due to Alvexo notifying him in September 2022 that it would be exiting the UK market by the end of the year. As part of this notification, Alvexo told Mr T that his account would be put on close only from 31 October 2022 and all open positions would be automatically closed on 31 December 2022.

Mr T withdrew his remaining balance of just over £49,000 in January 2023 and complained. He complained, in short, that Alvexo had never intended to keep a long-term presence in the UK and had deliberately exited the UK at a time when it would cause him maximum losses. He claimed that the losses he incurred would never have happened but for Alvexo's decisions. He also complained that the UK firm that Alvexo had indicated he could transfer his account to was a "clone" firm and that it didn't make clear that the transfer would involve the closure of open positions.

Alvexo looked into Mr T's concerns, but didn't think it had done anything wrong. It explained the reasons behind the decision to exit the UK market and explained that it had acted in line with the terms of the account and industry good practice. It offered to extend the timeline for making his account close-only to 30 November 2022.

Mr T remained unhappy and referred two complaints to this service.

The complaint I'm dealing with here is to do with Mr T's concerns around how his account was opened and whether Alvexo correctly assessed if it was appropriate for him, the investment advice he says he received from Alvexo during the time he traded with it and the encouragement he received to continue investing more funds. A separate complaint, subject of another decision, is about Alvexo's communications and decision to exit the UK market.

One of our investigators looked into Mr T's concerns and concluded that Alvexo hadn't done anything wrong. In short, he thought that it was fair and reasonable for Alvexo to have concluded, based on the answers Mr T gave, that trading CFDs was appropriate for him. The investigator also concluded that there was insufficient evidence to say that Alvexo gave Mr T advice to trade.

Mr T didn't agree with the investigator and provided detailed comments and evidence in response, including transcripts of hundreds of phone calls with Alvexo which he said showed he was given advice. In summary:

- Mr T claimed that Alvexo "groomed" him to trade certain stocks and add more money to his account.

- It encouraged him to trade on the basis of a long-term strategy despite its intentions to exit the UK market. He said the investigator hadn't properly considered this point and didn't interrogate the evidence sufficiently robustly. He said he needed to see the evidence of Alvexo's discussions and decisions around exiting the UK and whether those coincided with his account manager encouraging him to invest or deposit more money.
- Mr T said that Alvexo's conduct showed that it had omitted some evidence and deliberately mis-placed certain calls which would've showed that it had given him advice throughout the period he traded with it. He invited the ombudsman to draw inferences from Alvexo's conduct and claimed he should be compensated the full extent of his trading losses.
- Mr T claimed that the trading platform which Alvexo had suggested clients could transfer their accounts to was a "rogue trading platform" and a "clone" of Alvexo. He said that its financials showed that it wasn't capable of handling thousands of client accounts and that it only had two employees. He claimed Alvexo had an "unsavoury" relationship with this other firm, and the investigator hadn't properly investigated this relationship. He said his complaint couldn't be fairly considered unless this was done.

He claimed there was another consumer who had brought their complaint to the service raising similar concerns, and both complaints should be joined.

I issued a provisional decision. In it I said:

"The relevant standards

Appropriateness

The Financial Conduct Authority's (FCA) Conduct of Business Sourcebook (COBS) sets out relevant regulatory obligations that applied to Alvexo when agreeing to open Mr T's account.

COBS10A.2 "Assessing appropriateness: the obligations" says:

"A firm must ask the client to provide information regarding that client's knowledge and experience in the investment field relevant to the specific type of product or service offered or demanded to enable the firm to assess whether the service or product envisaged is appropriate for the client."

COBS10A.2.3 "Assessing a client's knowledge and experience: MiFID business" says:

"56(1) Investment firms, shall determine whether that client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or investment service offered or demanded when assessing whether an investment service as referred to in [COBS 10A.1.1R] is appropriate for a client.

An investment firm shall be entitled to 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."

COBS10A.2.6 "Reliance on information: MiFID business" says:

"55(3) An investment firm shall be entitled to rely on the information provided by its clients or potential clients unless it is aware or ought to be aware that the information is manifestly out

of date, inaccurate or incomplete.”

Definition of advice

Mr T has claimed that he was advised to enter certain trades and deposit more money. The FCA’s Handbook defines investment advice as:

“the provision of personal recommendations to a client, either upon the client’s request or at the initiative of the firm, in respect of one or more transactions relating to designated investments.”

The FCA’s Perimeter Guidance manual sets out some more detail around what constitutes a personal recommendation.

PERG sets out the three elements to deciding whether a communication amounts to a personal recommendation – of relevance to Mr T’s circumstances:

- It needs to be made to an investor;
- It needs to recommend that the investor buy or sell a specified investment and
- It needs to be presented as suitable to the person to whom it is made or needs to be based on a consideration of the circumstances of that person.

Annex 1 to PERG 8 gives examples of what is and what is not a personal recommendation and advice. Of relevance, in my view, to Mr T’s complaint is the following example:

“A firm sends a ‘markets outlook and investment information’ communication to its customers. This includes a summary of the firm’s views of markets outlooks together with an appendix setting out high level ‘house views’ on specific investment products.”

According to the FCA, this would not constitute a personal recommendation. This is relevant because where a firm provides a personal recommendation, it then needs to also make sure that recommendation is suitable (COBS9A) for that consumer.

My provisional findings

Was it fair and reasonable for Alvexo to have opened this account for Mr T?

Before Mr T opened his account with Alvexo, it asked him relevant information in line with COBS10A as I’ve set out above. Alvexo was entitled to rely on the information Mr T gave it before deciding whether he had sufficient knowledge and experience to understand the risks involved in trading CFDs.

In relation to Mr T’s experience, he declared that he’d been trading from 1 to 3 years. He said he some current experience, although with “low confidence”, and that he had also traded commodities in significant size. He said that he accepted a significant risk with his money and was willing to lose most of his investment, showing an acceptance of the risk involved.

On the basis of these answers, Alvexo concluded that trading CFDs was appropriate for Mr T and sent him an introductory email. This set out some additional risk warnings about investors losing money trading CFDs and set out the percentage of clients that lost money trading with Alvexo; 70%.

When looking at the information Mr T gave Alvexo at the time, and his experience, I'm satisfied it was fair and reasonable for Alvexo to conclude that trading CFDs was appropriate for Mr T. From the information he gave it, I'm persuaded that it was fair and reasonable for it to decide that Mr T had sufficient knowledge and experience to understand the risks involved in CFDs – and so it follows that in my view it was fair and reasonable for Alvexo to open Mr T's account.

Did Alvexo advise Mr T?

As I mentioned above, my role isn't to draw adverse inferences from the conduct of parties in the same way a judge or a jury might in a trial. So that's not what I've done.

However, having reviewed the transcripts of the many calls Mr T had with Alvexo, as well as Mr T's submissions, I accept that Alvexo was actively encouraging Mr T to deposit additional funds. I'm also persuaded that some of the calls demonstrated a cavalier attitude by Alvexo employees to the risks associated with trading CFDs, and therefore continually depositing more money. I'm not persuaded Alvexo had Mr T's best interests at heart for the most part – in my view, the calls I've seen demonstrate that Alvexo was primarily pre-occupied with encouraging Mr T to deposit more money, open more trades and trade more markets.

One of the calls in particular encapsulates this approach, by suggesting that the only way to make up "big losses" was to deposit "big money".

I accept that some calls haven't been provided or unavailable, but I'm not persuaded I can draw adverse inferences, as Mr T has invited me to do – what I can do is make some reasonable assumptions about what was discussed. Having considered the evidence of the calls I do have, I'm persuaded that it's likely those calls contained similar conversations with Mr T to the conversations contained in the calls I do have. In the main, I'm therefore persuaded that:

- *Alvexo repeatedly and frequently contacted Mr T to discuss trading opportunities with him. This involved:*
 - *Discussing current affairs, for example frequent discussions on COVID, the vaccine and other events. It also included the war in Ukraine, political announcements, speeches and other political events that might be likely to influence the markets.*
 - *Discussing Alvexo's analysis of what such events might mean for specific markets, shares or currencies – including Alvexo's view on whether those markets may benefit or not.*
 - *Discussing Mr T's account status, usually by summarising his overall margin position and covering off any big movements in his trading account, either losses or profits.*
 - *Discussing Mr T's own understanding of external affairs, his views of the markets and the trades he'd placed and his intentions going forward.*
- *Alvexo also encouraged Mr T to add more money to his account. It's clear that it had numerous ways of doing this – for example by offering him VIP or elite status on his account, or the opportunity to visit its office in Cyprus if he had a certain amount invested. Alvexo representatives consistently encouraged Mr T to keep money in his*

account in order to maintain margin significantly above 100%.

- However, I'm not persuaded Mr T was ever specifically advised to open one trade over another nor that he was ever guaranteed specific returns on the trades he was placing. In fact at various points Mr T was told by Alvexo representatives that they couldn't give him advice on which trades to place or which positions to close. The calls I've seen demonstrate that on these occasions Mr T accepted that Alvexo could not advise him, understood its position as his broker and simply took on-board what Alvexo told him would be the repercussions on his account if he took certain courses of action. I'm not persuaded Alvexo's commentary ever strayed into giving him advice or providing him a personal recommendation as defined in the FCA's handbook or in PERG.

Alvexo was entitled to give Mr T its assessment of news, market conditions and various stock or currency movements. This assessment at times included some commentary about what might happen in future, but I've seen insufficient evidence that such commentary was ever described as a "guarantee".

But during these calls, I'm not persuaded Mr T was ever then recommended a specific trade or advised that opening a specific trades or trades was right for him and his circumstances. In other words, there's insufficient evidence that Alvexo ever provided Mr T with a personal recommendation. The closest I've seen Alvexo recommending specific trades was on the basis of Mr T's available margin and the possibility that he could open more trades if he wanted to, given the state of his account. In my view this did not constitute a personal recommendation.

Taking all this into account, it's clear to me that Alvexo overstepped its duties in the way that it encouraged Mr T to risk more money. I'm not persuaded it acted in line with its Principle 6 obligation to pay due regard to Mr T's interests and treat him fairly – but in my view, it did not go as far as giving Mr T regulated advice as defined by the FCA. So the question is whether this encouragement to deposit more money caused Mr T's losses.

In answering this question, I've paid attention to what was discussed in the calls and to Mr T's understanding of the situation. As I've said above, it wasn't wrong for Alvexo to have opened Mr T's account. It's clear that he had sufficient knowledge and experience to understand the risks involved, and Mr T has explained that he understood the consequences of volatile markets and the effect leverage had on his profits and losses. This means that whenever Alvexo suggested the possibility of Mr T adding more money to his account, he had sufficient information and experience to evaluate for himself if this was something that was consistent with his own aims, objectives and appetite for risk at that moment in time, as well as his overall financial circumstances.

Although I've accepted Alvexo shouldn't have encouraged Mr T the way it did, it's clear to me that Mr T was never forced to add more money, or misled into doing so. Furthermore, Mr T was aware of the amount of money he was losing, or his running profits and losses. He discussed this repeatedly with Alvexo over the time he was its client. Mr T has used the term "grooming" to describe Alvexo's actions, but I don't agree with that categorisation. Mr T was fully capable of understanding what Alvexo representatives were telling him and had enough information, knowledge and experience to decide for himself what he wanted to do. So even though I can understand why Mr T felt like he was being repeatedly encouraged to risk more and more money, I'm not persuaded there's sufficient evidence to conclude that Alvexo ought to bear the consequences of those deposits, when Mr T at all times was in control of his account and more than capable of deciding for himself how much money he wanted to invest. Mr T was fully informed and aware of what he was doing – and was keen to continue trading in the hope of profiting. I'm satisfied that the losses he experienced were trading

losses caused by his own trading decisions and not something Alvexo did or didn't do.

Even if I was wrong on that point, Mr T clearly had numerous opportunities to mitigate his ongoing losses. Most of the calls I've seen discussed his open trades with Alvexo, whether they were making money or losing money and the margin situation on his account. There are references to this account making \$150,000 in one month, which was something Mr T was clearly satisfied with. In any of those calls, and in fact at any point when he checked his account, Mr T could've reduced his exposure, thereby limiting his eventual losses. As I've said above, I'm not persuaded Alvexo ever misled him or gave him incorrect information suggesting his account was more profitable than it really was. I don't agree it would be fair and reasonable to ask Alvexo to compensate Mr T for his substantial losses, when he was fully aware of the trades he was placing and was fully in control of the amounts he was depositing and the size and volume of the trades he had open.

Mr T's other comments

Whilst I appreciate how strongly Mr T feels about the other matters he has raised, I'm not persuaded those are matters I can decide nor that they would make any difference to my provisional findings above. Although Mr T takes issue with the other firm that Alvexo suggested clients could transfer their accounts to, this appears to me to be an entirely moot point. Mr T did not transfer his account there. I accept that Mr T is making these submissions in order to persuade me to draw further inferences, but as I've explained above, this service is not a court. I'm required to decide what's fair and reasonable in the circumstances of the case, based on what has actually happened.

In any event, and for the sake of completeness, I don't consider I'd be able to take into account the claims made by Mr T. It isn't in dispute that the firm Alvexo suggested clients could use was regulated by the FCA. The FCA has a process in place to authorise firms and it is not my role to do this. This means that Mr T was entitled to do his own due diligence, as he did, before deciding whether to transfer his account to this firm. But I'm not persuaded I can conclude that this firm was a "a rogue trading firm". It was duly authorised by the relevant regulator with permissions to deal with clients like Mr T.

As for the "unsavoury" relationship Mr T has alleged existed between those two firms, I'm also not persuaded this is something for me to decide. Use of the same terms and conditions, as well as some overlap of staff, is a regulatory matter and not something I can make findings about. Ultimately, that firm was a regulated firm, authorised to provide the relevant service to him that Alvexo was providing. As such, there was nothing inherently wrong or unfair in Alvexo recommending it as an option to existing clients.

In terms of joining cases with another consumer, this isn't something I consider would've been possible or fair and reasonable. This service is set-up to decide cases on their own merits, and this is what I've done here. I don't agree Mr T is any way prejudiced from making his complaint as a result.

On Alvexo's decision to exit the UK market and whether it "always intended to do so", I am of the view that this is also a matter that is outside my remit. Firms are obviously entitled to make their own assessments about which countries they want to carry on their activities and where they want to be regulated. Those assessments may change over time and Alvexo's submissions in that regard indicate that its decision to exit the UK market was based on its conversations with the FCA. I accept that Mr T doesn't believe that's true – but as I've said, this isn't a matter I can decide, nor do I consider it relevant to the matters I've addressed above and which I consider are key to Mr T's complaint.

Conclusion

Taking all this into account, I don't agree it would be fair and reasonable to hold Alvexo responsible for Mr T's losses. In my view Mr T's losses were trading losses which were incurred as a result of market movements and Mr T's trading decisions. I'm satisfied it was fair and reasonable for Alvexo to conclude that trading CFDs was appropriate for Mr T in that the answers he gave it showed he had sufficient knowledge and experience to understand the risks involved. Furthermore, he was provided with additional risk warnings as well as an indication that the vast majority of Alvexo's clients lost money while trading CFDs. Finally having reviewed the calls that Alvexo had with Mr T, I can also see that market movements, profits, losses and his margin requirements were discussed in detail – so Mr T knew at every point what the status of his account was.”

Mr T provided detailed comments in response to my provisional decision. He said:

- He claimed it was wrong for me to conclude I couldn't draw an adverse inference and provided legal references that showed that this was “well-established in UK law”. I was therefore wrong in law and unfair and unreasonable in not drawing an adverse inference in this case.
- Mr T claimed that he had previously shown that evidence was incomplete or altered and that phone calls were missing. He said that these telephone recordings were important and I either needed to draw an adverse inference, write to Alvexo to ask for an explanation, or facilitate an oral hearing to allow Alvexo to explain the incomplete evidence. Since I didn't do any of these, my decision was unlawful, unfair and unreasonable.
- Alvexo was in breach of its duty to the service, and this was another reason why my failure to draw an adverse inference was unfair.
- It was wrong for me to make assumptions or a series of findings against him, without considering the significance of the telephone calls that were absent.
- I had failed to consider Alvexo's motivation in keeping Mr T trading and depositing money.
- I had also mischaracterised Mr T's complaint. He said my conclusion that his “trading losses [...] were incurred as a result of market movements and Mr T's trading decisions” was wrong. His complaint had never been about losses arising from the market movements. His complaint had always been that his losses were caused by being forced to close his trades in October 2022. He claimed that he was forced to close these trades because Alvexo had decided to stop trading in the UK, contrary to what he had previously been told. Those representations had been “expunged” from the telephone records.
- He claimed that by October 2022 he was not in control of his trades and had lost confidence in Alvexo – as they didn't warn him that their platform was “vulnerable to sudden closure”.

Given the absence of the telephone calls, I should've accepted Mr T's account of what actually happened and why he was forced to close his trades on that day. He said Alvexo had an incentive to recoup its losses, as between July 2021 and September 2022, he had made over £200,000. He said that if I had followed the profit motivation for Alvexo, I would've discovered the motivation behind the tampering of evidence.

- It was unfair for me to conclude that he was fully aware of his trades and fully in

control of what he was depositing, as well as the size and volume of the trades he had open. If I had properly addressed his complaint, I would've realised that Alvexo had a vested interest in "accelerating his losses" and he had caused them substantial losses through his successful trading.

- It was also wrong for me not to consider evidence from other clients. I should also have considered Alvexo's "bad character" as a result of its recommendation of the other broker. He reiterated his complaint points about that broker.

He reiterated, in detail, the reasons why I should've drawn adverse inferences from Alvexo's incomplete and withheld evidence.

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 thank Mr T for the detailed comments he has made – I'd like to confirm that whilst I've only summarised them above, I have read all the points he has submitted. I understand he profoundly disagrees with my provisional findings. However, having carefully considered the file and everything he has said again, I'm not minded to change my provisional findings.

I would also like to confirm that, while I've considered everything he has said in response to my provisional decision, I will not be responding point by point. My role is to focus on the key issues in the complaint in order to determine what is fair and reasonable in the circumstances.

The missing telephone calls

My understanding of Mr T's position is that he believes his submissions show that not all calls were provided – and he has provided contemporaneous emails and other transcripts to demonstrate the calls that are missing. And the crux of his evidentiary argument is that I should have concluded that Alvexo had deliberately withheld this evidence and drawn an inference from this conduct – that inference being, as I understand it, that the evidence it didn't provide would've entirely supported Mr T's complaint. So I should therefore find in his favour and award what he perceives are his losses.

I deal first with Mr T's submissions on my powers and I explain how I've taken into account, in both this decision and my provisional decision, the absence of some of the evidence. And I then go on to discuss why I'm not persuaded Alvexo did, in fact, cause Mr T the losses he claims and therefore why I'm not persuaded it would be fair and reasonable to require it to compensate him.

This service is an informal dispute resolution service, set up to resolve complaints with a minimum of formality.

The powers that allow me to look at Mr T's complaint are set out in the Dispute Resolution section of the Handbook. In relation to the absence of evidence, that power is set out in DISP 3.5.9R(3):

"The ombudsman may:

(3) reach a decision on the basis of what has been supplied and take account of the failure

by a party to provide information requested”

In Mr T’s case, as I explained in my provisional decision, I took into account the fact that Alvexo was unable to supply every call recording between it and Mr T during the relevant time period. But for the reasons I explained, and cover below, I’m not persuaded there’s sufficient evidence to conclude that Alvexo deliberately withheld this evidence.

I say this firstly because Mr T’s original submissions, in which he makes reference to certain emails and seeks to demonstrate which calls are missing, do not suggest that those calls are materially different, in nature, to the calls I do have – this is what I found in my provisional decision. In fact, the contemporaneous emails that Mr T has provided show that he took his time when deciding whether to deposit further funds, open new positions or take other actions on his account. And there’s no reference in those emails to Mr T having been advised on particular trades or to make particular investments. So there’s insufficient evidence to demonstrate that the missing calls contained investment advice not present in other calls, or would show that Alvexo was giving him personal recommendations when it shouldn’t have been.

For example, an August 2021 email shows Mr T responding to an introductory email, following what must’ve been a phone call (which wasn’t provided), in which Mr T himself says “thanks for the telephone call and guidance”. Therefore, I accept this call happened and the recording of it wasn’t provided. But even though the call isn’t available, it’s clear to me that the contemporaneous evidence doesn’t show that it is likely this call contained information that would be material or relevant to this complaint. Mr T doesn’t describe this call in a way that would indicate he was given advice. Therefore, the absence of the call is not relevant.

Furthermore, a follow-up call shows Alvexo inappropriately encouraging Mr T to invest more money – something I was already critical of in my provisional decision. But that call was in fact provided, as Mr T acknowledges in his submissions. In my view, this is not evidence of Alvexo deliberately concealing calls, or else it would’ve concealed all calls in which its conduct was questionable – but simply the reality that some calls are available and some are not. The calls Alvexo has provided are already evidence, as I said in my provisional decision, of its behaviour not being aligned with the FCA’s standards of conduct. In my view, the calls it did provide painted Alvexo in a less than positive light – and this would suggest that rather than deliberate concealment of inculpatory evidence, Alvexo’s inability to provide some of the calls Mr T makes reference to is because it simply didn’t have them. This is not uncommon.

In one of Mr T’s key submissions he claims a missing call demonstrated the tampering of the evidence – but I’ve already accepted that his note of that conversation (that he was actively encouraged to deposit more money) is accurate. I already agree that Alvexo did encourage him to deposit more money – but this is something Mr T also admits he was keen on doing himself in order to ensure he always had sufficient margin available. And there’s insufficient evidence to show that Mr T was ever pressured into depositing money when he didn’t want to – in fact I’m persuaded that Mr T only ever deposited money or opened trades when he agreed it was the right thing to do or was the appropriate course of action for the strategy he was pursuing.

Mr T makes other references to calls missing, but again, I’ve already found that Alvexo likely did encourage Mr T to invest and certainly did not act in Mr T’s best interests in all its communications with him. But in none of the emails Mr T has provided from the time, did Mr T make reference to advice, pressure or any other claim that he is now saying took place in those calls.

That contemporaneous evidence, in my view, shows that whilst it is unfortunate that not all calls were available, the volume of evidence I do have is sufficient to reach a finding on Mr T's complaint and ensure I decide the matter by reference to what is fair and reasonable – as defined and enshrined in the Financial Services and Markets Act 2000 (FSMA).

In this case, this means deciding the matter on the balance of probabilities, taking into account Mr T's submissions on the evidence that is absent, while at the same time taking into account the evidence that *is* available, as well as the overall circumstances of the complaint. I say this bearing in mind that, as Mr T himself is aware, there are many, many phone calls that *are* in fact available in this case. There are many hundreds of emails, telephone calls, and submissions. This service relies on submissions from the parties to decide complaints with a minimum of formality. It's obviously the case that firms routinely provide evidence to the service which goes against them and which is supportive of complaints. So the mere absence of some calls is not, of itself, evidence that Alvexo has concealed inculpatory evidence.

As I explained above, in this decision my role is to focus on the key issues – so I won't be dealing with each example Mr T has raised for why he considers the missing phone calls to be relevant. I think it is worth reminding Mr T that I've already considered this evidence. I took it into account when deciding whether or not he was given advice, or was otherwise manipulated or groomed into investing more than he wanted. I reviewed his submissions cross referencing various phone calls and pointing out calls that he believes were missing.

I have reconsidered those submissions and, for the reasons I've given above, I'm satisfied that having already taken into account Alvexo's failure to provide some of the calls, it would not be fair and reasonable to draw any further inferences from these missing calls – and most importantly, that the absence of those calls does not in any way hamper me in deciding what is fair and reasonable in the circumstances of this complaint.

I say this because in my view, the key issue in Mr T's complaint is "Mr T's overall claim – that Alvexo, through its actions, caused his trading losses of over \$400,000 and that, in his view, it would be fair and reasonable for it to refund him those losses."

The account opening and the other broker

On the issue of whether Mr T's account should've been opened at all, I'm satisfied that nothing that has been raised causes me to change my provisional findings – so I confirm them here as final. Mr T had sufficient knowledge and experience to understand the risks involved in CFD trading and so the service was appropriate for him.

And Mr T's comments in response to my provisional decision don't change my findings in relation to the other broker. Mr T has not provided sufficient evidence to demonstrate that the other firm was a "clone firm". As I previously said, that firm was appropriately authorised and regulated by the FCA, following a process the regulator is responsible for. There was nothing inherently wrong in Alvexo recommending this firm as an option for the transfer of open positions (something Mr T did not accept anyway) and, further, Mr T was free to find another broker if he wanted.

Did Alvexo's decision to exit the UK market cause Mr T's losses

So the next key issue is whether Mr T was advised, as he says he was, by Alvexo to invest in long term opportunities when it had no interest in sustaining a long-term presence in the UK. Although I understand Mr T's strength of feeling on this issue, I'm not persuaded to

change my findings.

Alvexo's commercial decisions about its future plans or operations are not something I can fairly and reasonably make findings about, nor things I consider I need to know in order to address Mr T's complaint. I say this in part because whatever Alvexo's intentions throughout its relationship with Mr T, it took it over a year before making the decision to exit the UK market – and I'm persuaded by its explanations that this happened only when it found out it wouldn't obtain full authorisation once the TPR permissions ended. I've already explained in another decision why I found Alvexo's submissions on this issue persuasive. But primarily, I'm not persuaded that Alvexo's commercial decision-making is key to addressing Mr T's complaint, and in particular, I don't consider it relevant to deciding whether Alvexo actually caused any of the losses Mr T is claiming.

In terms of the contact Mr T had with Alvexo, I explained in my provisional decision why I've seen insufficient evidence that Alvexo ever actually provided Mr T with a personal recommendation to invest in CFDs.

On this point I think it's important I also point out to Mr T that even if I had evidence that he had been recommended specific trades by Alvexo, that wouldn't automatically lead me to upholding his complaint or concluding that he was entitled to compensation. Given Mr T's background, his financial circumstances, his experience trading and his desire to trade CFDs, I'd also need to conclude that it wasn't fair and reasonable for Alvexo to conclude that such recommendations were suitable for him, given what it knew about him.

As I explained in my provisional decision, Mr T was fully engaged and well informed about what was happening in the markets and how his account, and his trades, were performing. He was clearly an experienced trader who was capable of making his own investment decisions. In fact Mr T was so experienced that he told this service that his realised profit for the months August 2021 to September 2022 was in excess of \$235,000, sometimes \$20,000 per day. Whilst profit alone is not determinative, I think this level of profit combined with the telephone conversations I've considered, Mr T's email communications and his experience demonstrate Mr T's level of sophistication.

In any event the absence of *some* calls doesn't, in my view, mean that I must ignore all the other evidence that is available – particularly given the volume of evidence (including calls) I've been able to take into account.

Some of these calls clearly explain to Mr T that Alvexo could not advise him on which trades to place or what markets to trade on. If he had been advised in previous calls as he says, I think it would be reasonable to expect some reference, from him, about that previous advice – particularly at times when the markets were not going in his favour. Yet the opposite is true – Mr T acknowledges in various phone calls that Alvexo's role isn't to give him advice. And the emails from Mr T at the time do not make reference to conduct amounting to advice or recommendations. In my view this is persuasive evidence that Mr T knew that his relationship with Alvexo was not an advisory one, and indeed in one of the phone calls Mr T acknowledges that Alvexo couldn't give him advice.

As I've said, it's clear to me that Alvexo was keen on Mr T investing more money and was not necessarily acting with his best interests in mind in all its contact with him.

But whilst its conduct at times was improper, the evidence I've seen in my view shows that Mr T was placing trades on the basis of his own assessment of the market. For example, Mr T frequently took time to decide his next moves and whether or not to deposit more money or open more trades. In a number of calls it is clear that Mr T was well aware of what was happening in the market or what external events might affect his open trades or the strategy

he was pursuing.

What Mr T's submissions fail to address is the fact that he alone had control over his account. At any point Mr T could've chosen to stop trading or stop depositing – there's no evidence he considered doing so and was stopped or prevented by Alvexo. Mr T has at various points remarked on the volume of calls between him and Alvexo – but I've not seen any evidence that Mr T asked Alvexo to stop contacting him. In fact, the calls I've heard show that Mr T was usually keen to discuss his account, market developments and any potential opportunities.

It's clear to me that Mr T was not only experienced and knowledgeable enough to make those decisions, he was also routinely made aware, by Alvexo, of the state of his account and the size of his unrealised losses or profits. Given everything I've seen, I remain of the view that holding Alvexo responsible for Mr T's trading decisions would not be fair and reasonable.

Mr T has said that I failed to consider Alvexo's motivation in keeping him trading and depositing – but I did consider that. I concluded, as I've done above, that Alvexo overstepped its duties when it acted in this way. But in my view, that didn't cause Mr T's losses. Mr T wasn't forced, misled or tricked into investing – he did it because he was convinced his strategy would be profitable. Unfortunately, there was a high risk of capital loss in this type of trading (risks that Mr T was made aware of when he opened his account, and every time he traded) and that risk materialised when he crystallised these unrealised losses by closing his trades in October 2022. It clearly wouldn't be fair and reasonable to ask Alvexo to compensate losses arising from Mr T's investment decisions simply because they turned out not to be profitable – especially when, as I explain below, at least some of his trades would not have been loss-making had he chosen to close them at a later point.

Mr T also claims that I mischaracterised his complaint when I concluded that his losses were caused by trading losses. He says his complaint was about being forced to close his trades in October 2022.

But I didn't conclude that Mr T was complaining about market movements – I concluded that in my view, on the balance of probabilities, Mr T's losses were caused by market movements, not what Alvexo did or didn't do. I acknowledge that Mr T believes he was forced to close his trades in October 2022 – but as I've said in my provisional decision, and confirm in this decision, to my mind it is clear that Mr T had different actions he could've taken in October 2022 that would reasonably have mitigated the impact of closing his trades. He chose not to pursue any of those other avenues and did so of his own volition. He was not forced to close his trades by Alvexo's actions, because Alvexo had given him 3 months to do so – *he* decided that no other action was acceptable to him. Whilst he was entitled to make that decision, the losses flowing from that choice are not, in my view, caused by Alvexo. This is supported by one of Mr T's earliest submissions to this service where he explained that one of his open CFDs on the German 40 Index would've made him a \$14,000 or \$15,000 profit had he closed it in November or at the start of 2023. This means that Mr T admits himself that his losses would've been avoided or significantly reduced had he not chosen to close his trades in October.

Furthermore, I remain unconvinced by Mr T's repeated assertions that he was somehow misled by Alvexo as to its true intentions about remaining in the UK market.

Even if representatives on the phone were telling him that Alvexo was looking for a long-term presence in the UK market, he was aware that Alvexo was an overseas firm. It was clearly a possibility that at some point it may stop providing services in the UK.

But ultimately, the crux of Mr T's complaint is that the losses he incurred when he closed his trades were unavoidable. Regardless of how strongly Alvexo assured Mr T (particularly in the calls Mr T has pointed out are missing) that its presence in the UK was long-term, Alvexo gave him three months to close his trades – Mr T wasn't faced with a "sudden" closure of his account. Furthermore, he was offered a transfer to another regulated broker and this would've allowed him to keep the same net exposure. He had the option of transferring his trades to any other regulated broker of his choosing that would accept the transfer. He could've simply closed his trades over time and reopened them elsewhere – three months was sufficient time to do so.

These options would've allowed Mr T to maintain the long-term exposure he says he was pursuing – in other words, Alvexo's decision to pull out of the UK market didn't prevent him from pursuing this strategy. Instead, Mr T chose to close all of his positions, at a substantial loss, a short time after being notified that Alvexo would be exiting the UK market. I appreciate Mr T disagrees, but I'm satisfied that whilst this was a decision he was entitled to take, Alvexo didn't cause him to take it – and it therefore wouldn't be fair and reasonable for it to be responsible for the financial consequences of that decision nor for losses which were ultimately the result of Mr T's trading decisions.

I've seen insufficient evidence that Mr T was misled, mis-advised or otherwise coerced into depositing money or trading when he didn't want to. The evidence I've seen shows that Mr T was fully in control of his account and his trading decisions, was involved in the conversations about which trades to place and how much to deposit and decided for himself what to do and when.

And whatever the shortcomings of Alvexo's service, and I agree there were many, I'm persuaded that Mr T's losses were caused by his own trading decisions and, ultimately, by his decision to close those trades in October 2022. I understand Mr T will be disappointed with my final decision. If he doesn't accept it, it won't become legally binding and he'll be free to pursue Alvexo in other ways.

My final decision

My final decision is that I don't uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 17 December 2025.

Alessandro Pulzone
Ombudsman