DRN-5664688

## The complaint

Mr A complains that IG Index Limited ("IG") failed to identify he was a problem gambler. He says if it had done so and intervened as he thinks it should, he would have suffered substantially lower losses on his trading account. He also says his experience with IG caused severe health issues and impacted on his recovery from them. He wants IG to compensate him for that.

## What happened

Mr A opened a spread betting account with IG in 2004. He traded frequently, and in increasing volumes, averaging around 2,500 trades per year between 2004 and 2020 when his account was closed.

Over this time he generally lost money, with the net payments to his account (effectively, his losses) averaging around £30,000 a year, and totalling around £500,000 across the time he held the account. His trading covered a range of instruments, with a large number in spread bets on various stock market indices.

After an illness in 2020, Mr A reviewed his account with IG, and complained. He said IG ought to have realised he had an issue with compulsive trading and problem gambling behaviour. He said IG should have done more to protect him. He noted that his losses were significant, and that he placed a large number of trades. He pointed out that he had made many payments in and out of his account, using different cards including credit cards. He said IG never contacted him, reducing its opportunities to identify his problem.

IG didn't uphold his complaint. It said it periodically collected information about Mr A's financial situation – and based on his declared earnings and savings it hadn't identified any issues. It said *"should lower figures have been declared, it is likely that IG would have intervened to determine whether the account was presenting an affordability issue"*.

IG said that once Mr A explained the impact the account was having, it restricted and then closed it. It said if it had known about the impact sooner, it would have placed restrictions on the account at the time.

Mr A brought his complaint to our service. One of our investigators looked into the matter. Initially, she concluded that part of the complaint had been brought too late. She found we could only look at events from the six years before Mr A complained to IG. As Mr A complained on 13 July 2020, this meant we could look at the way IG handled Mr A's account from 13 July 2014 onwards. Both parties accepted this.

In relation to the substance of the complaint, the investigator said she couldn't hold IG responsible for failing to address Mr A's problem unless it was aware, or ought reasonably to have been aware of it. She said Mr A hadn't explicitly said he felt he had a gambling problem until his complaint in July 2020.

She went on to consider Mr A's account activity. She said it wasn't uncommon for people trading spread bets to lose money, even large amounts. She didn't think Mr A's losses were enough on their own for IG to conclude Mr A had a gambling problem. She acknowledged that Mr A may have found it hard to disclose his issues to IG, but thought he could have done so if he'd wanted to. She didn't think IG had an obligation to proactively monitor Mr A's account or ask if he was experiencing gambling related harm.

Overall she wasn't persuaded Mr A's losses were IG's fault, or that IG ought reasonably to have been aware of the issues Mr A now said he was experiencing at the time he was trading with IG. So she didn't think it needed to do anything more.

Mr A wasn't satisfied and asked for an ombudsman's decision. In summary, he said:

- Not just his losses, but the volume of his trading and deposits should have alerted IG something was wrong.
- He was depositing into his account multiple times a day, on one occasion making 12 separate deposits.
- IG had told him he was in the top 5% of its traders by volume – but it wouldn't be more specific and it could have been higher than that.
- From 2017 onwards he increasingly used credit cards to fund his account. The Gambling Commission had stopped people funding betting accounts using credit cards.
- He estimated that IG had – through premiums and the "spread" on his trades – made around £150,000 from his trading since 2014. He said that raised the possibility it wasn't in IG's interests to stop him trading.
- Because his account had now been restricted, he wasn't able to fully investigate his account activity in order to build his case.
- He considered his trading with IG to have *"transcended any of the norms of a normal trading relationship"* and that it was *"totally off the scale"*. Given that, he didn't think IG made any attempt to keep in contact with him – other than sending many tens of thousands of automated trade confirmation emails.

Overall Mr A felt he was in a *"catch-22"* situation. IG would only take action if he disclosed something about his gambling problems, but while he was in the midst of his problem gambling he'd never have disclosed anything. He felt that IG ought to have taken more responsibility.

I issued a provisional decision, saying I didn't intend to uphold the complaint. I said:

> When deciding what's fair and reasonable, I'm obliged under DISP 3.6.4R to take into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and where appropriate what I consider to have been good industry practice at the relevant time. This means were I to depart from the law, or another relevant consideration, I must have a good reason for doing so.
>
> ***Relevant law, rules and regulations***
>
> Mr A has made many references to differences between the FCA's regulatory rules, and those of the Gambling Commission, which regulates fixed odds betting. He's also set out at different times steps or procedures which he thinks might have prevented him suffering the losses he did.
>
> Mr A traded exclusively regulated financial spread bets (and some CFDs) with IG. These products were at all relevant times solely covered by the FCA's conduct rules, and not the Gambling Commission. I acknowledge that IG was, for a time, registered with both the FCA and the Gambling Commission – and as I will go on to discuss,

some of its policies regarding problem gambling were derived from Gambling Commission rules and guidance, but applied by IG across its range of products.

But I think it's important to set out that any rules or guidance of another regulator, or any suggestions Mr A has for improvements to rules or processes, or even any subsequent changes to rules brought in by the FCA since the events of this complaint, aren't *"relevant"* regulations or guidance for the purposes of assessing how IG treated Mr A. I can only consider IG's actions in relation to the rules, guidance, law and wider financial services regulatory regime as it was at the relevant time.

With that in mind, I think it would be helpful to set out the law, regulatory rules and guidance which I consider to be relevant in the circumstances of this complaint. I would also add here that this complaint spans events from 2014 to 2020, during which some regulations changed, and in particular some of IG's own policies did.

Throughout the relevant period, IG was obliged to – in all dealings with customers like Mr A – comply with the FCA's Principles for Businesses, given at PRIN 2.1.1R. These included:

• Principle 2 – A firm must conduct its business with due skill, care and diligence. And
• Principle 6 – A firm must pay due regard to the interests of its customers and treat them fairly.

Principle 6 was also reflected in the FCA's conduct rule at COBS 2.1.1R which said:

*"A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule)."*

While not in force at the time Mr A opened his account in 2004, in November 2007 the regulator introduced a rule which applied to firms offering new spread betting accounts like Mr A's (as well as applying to other products). The then COBS 10.2.1R said that:

*"(1) When providing a service to which this chapter applies, a <u>firm</u> must ask the <u>client</u> 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 <u>firm</u> to assess whether the service or product envisaged is appropriate for the <u>client</u>.*

*(2) When assessing appropriateness, a <u>firm</u>:*
*(a) must determine whether the <u>client</u> has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service offered or demanded;"*

Of relevance to Mr A's account, COBS 10.4.3R then says:

*"A <u>client</u> who has engaged in a course of dealings involving a specific type of product or service beginning before 1 November 2007 is presumed to have the necessary experience and knowledge in order to understand the risks involved in relation to that specific type of product or service."*

I've also considered the FCA's guidance, published as FG 21/1 in 2021, *"Guidance for firms on the fair treatment of vulnerable customers"*. While Mr A's account closed in 2020, before this guidance, I'm satisfied that this is still relevant guidance as the regulator made it clear this guidance related to rules and principles which firms were already expected to comply with. For example at Paragraph 1.13 the guidance says:

*"This Guidance sets out ways in which firms can comply with their obligations under the Principles – to treat vulnerable consumers fairly"*.

And at 1.15 it says *"Our guidance makes clear what the standards set out by our Principles mean for firms"*.

There is also caselaw which I consider to be relevant when deciding this complaint. The question of obligations a firm has to problem gamblers under the FCA's rules and principles was addressed in *Quinn v IG Index Ltd [2018] EWHC 2478*. When discussing COBS 2.1.1R, the judge in that case said at paragraph 76 of his judgment:

*" In my judgment it is an error to consider the scope of these rules in isolation. The rules are a code. They are designed to give effect to EU Directive 2004/39/EC on Markets in Financial Instruments ("MiFID"). Within that code the role of each of the rules is inevitably different from that played by the others though the whole is designed, and should be construed so as to secure the appropriate degree of protection for consumers – see s.5(1) FSMA and Ehrentreu v. IG Index Limited [2018] EWCA Civ 79 per Flaux LJ at [16]. The factors that the FSA were required to have regard to are those set out in s.5(2) FSMA. Those factors include the "… the general principle that consumers should take responsibility for their decisions …" – see s.5(2)(d) – and "… the differing degrees of … expertise that different consumers may have in relation to different kinds of regulated activity …" – see s.5(2)(b)."*

The judge later goes on to say (sections in bold are my emphasis):

*88. Notwithstanding the wide language used, in my judgment* ***the obligation imposed by COBS 2.1.1R to " act honestly, fairly and professionally in accordance with the best interests of its client …" does not impose on an authorised person carrying on designated investment business the duty of preventing a retail client from engaging in an execution only transaction, or execution only transactions, of a class that it has assessed is appropriate for the client concerned.*** *To construe the provision as having such an effect would be to construe it as imposing a duty massively in excess of that which has been recognised at common law and massively in excess of what is the appropriate degree of protection identified in s.5(1) FSMA having regard to all the factors identified in s.5(2)(a), (b) and (d) FSMA.*

*89. In relation to common law duties, as Lord Hoffman put it in Reeves v MPC [2000] 1 AC 360 at 368 "… people of full age and sound understanding must look after themselves and take responsibility for their actions … duties to safeguard from harm deliberately caused by others are unusual and a duty to protect a person of full understanding from causing harm to himself is very rare indeed…" That case was concerned with physical harm. Calvert v. William Hill Credit Limited [2008] EWHC 454 was concerned with economic loss suffered by a problem gambler. Briggs J as he then was commented that "… the recognition of a common law duty to protect a problem gambler from self inflicted gambling losses involves a journey to the outermost reaches of the tort of negligence, to the realm of the truly exceptional …' He concluded that a book-maker was not under a common law duty to protect a problem gambler from self-inflicted gambling losses. That conclusion was not challenged on appeal. In relation to a narrower duty in relation to the bookmakers agreement to give effect to a self-excluding request by the gambler, the damages claim failed on causation grounds – an issue that I expand upon later.*

*90. In relation to the duty imposed by COBS 2.1.1, in IG v. Ehrentreu [2015] EWHC 3390 (QB) Supperstone J rejected a claim by a bet placer that the spread betting operator was in breach of the COBS 2.1.1 statutory duty to act in the bet placer's best interest by failing to close out his bets because he had failed to meet a margin call. In reaching that conclusion, the Judge included as a relevant consideration that "… the general principle behind the rules is that consumers should take responsibility for their decisions". There it was not being argued that the spread betting operator was under a duty to prevent the bet placer from placing bets.*

*91. I accept of course that in principle rules could be formulated that extend the duties of the persons to whom the rules applied beyond the obligations such persons would have at common law so as to impose on firms such as the defendant a duty to prevent for example defined classes of potential bet placers from placing bets. However there is nothing within either Art.19.1 of MiFID or s.5 of FMSA that supports the view that such was a purpose of COBS 2.1.1. Indeed both are inconsistent with that being the intention. Art.19 places the emphasis on making communications between client and firm fair, clear and comprehensible, on the need for firms providing execution only services to assess appropriateness by reference to knowledge and experience, on the maintenance of records of the rights and obligations of firm and client and on the need for firm to report to clients on the services provided and the costs associated with the provision of such services. S.5(2)(d) is inconsistent with such being a purpose of COBS 2.1.1. Whilst sub-paragraph (d) is only one of the factors to be taken into account,* ***it is in my judgment one that is inconsistent with an intention to impose a duty on for example a spread-betting operator to prevent a bet placer from placing bets.***

*92. As Flaux LJ concluded in Ehrentreu v. IG [2018] EWCA Civ 79, in relation to contractual obligations said to impose a duty to protect another party from deliberately inflicting economic harm on himself, it would require very clear express words spelling out such a duty before a court could conclude that such an exceptional duty had been imposed by the term concerned. In my judgment similar considerations apply when construing a rule such as COBS 2.2.1. The need for a bet placer to have a sound understanding is delivered by the requirement imposed by COBS 10 that spread betting operators assess appropriateness, not by imposing a wide-ranging general duty to protect a bet placer from potentially inflicting economic harm on himself via COBS 2.2.1.*

Finally I will turn to IG's own terms and policies. The terms of Mr A's account didn't specifically detail what IG would or wouldn't do in regard to problem gambling. But IG has explained it has had various policies in place over the relevant period.

From 2004 until 2018, IG has said it had a Responsible Gambling Policy – which it applied to both its Gambling Commission regulated business and its FCA regulated business. In 2018, when IG surrendered its Gambling Commission Licence, it produced a Vulnerable Client policy. I've been provided with a copy of the Responsible Gambling Policy from 2012, and iterations of the Vulnerable Client Policy from 2018 and 2019. My understanding is that the Responsible Gambling Policy was materially unchanged between 2012 and its replacement with the Vulnerable Client Policy in 2018.

The Responsible Gambling Policy says:

*"there are a few steps we can take to spot a problem gambler;*

*• If the client tries to place a bet and the initial card transaction is declined, do they propose to try progressively lower amounts?*
*• If their card issuer rejects all transactions, do they try to register a credit card as a replacement?*
*• Are there large variations in the size of the client's bets?*
*• Is the client's betting pattern erratic (lots of bets on lots of different products)?*

*Obviously it's difficult to spot, but should you suspect anyone of being a problem gambler, don't hesitate to inform your supervisor or manager. Do not, however, confront the client with the issue.*

*It is also essential that you never encourage clients to gamble. Many will often ask your opinion. In these circumstances I suggest politely declining and re-enforcing the point that the decision to bet is solely the responsibility of the client.*

***Self Exclusion***

*Should a client admit to having a problem, there are a few courses of action. The first is to offer the option to "Self Exclude"*

*This means we will close the clients account for a minimum of 6 months and maximum term of 5 years, with the client unable to re-open it."*

The 2018 version of the vulnerable client policy sets out similar procedures for self-exclusion. It then says:

*"In light of this, if a client requests self-exclusion or if a client demonstrates behaviour suggesting that holding an account may not be in their best interests, IG will treat them as a vulnerable client and close their account in a similar manner to the above whereby it cannot be re-opened and any new applications will be declined for a default period of five years unless the client has made an explicit request for the account to be closed for a different time period. Any request for the account to be reactivated will have to be approved by the compliance team.*

***Operational implementation***

*All staff who have direct interaction with a client will have a responsibility to implement this policy. Where a client specifically asks for self-exclusion, their account should be closed on status code 78. This is currently the code for self-exclusion, and so will have minimum operational impact.*

*All staff members will be able to set an account to the 'Vulnerable client' status code. If there are any concerns as to whether this action is appropriate, a member of the compliance team should be consulted to determine whether the client should be treated as vulnerable and so have their account closed.*

*Examples of vulnerability would include a client mentioning that:*

*• Trading was causing physical or mental health issues*
*• Trading was compulsive and they were unable to stop*
*• Trading was casing more losses than a client could afford and this was subsequently causing them harm.*
*• Client is borrowing in order to trade.*

*Were a client to mention any of the above factors, the account should be closed as there is a clear indication that the client can be considered vulnerable."*
This policy came into effect on 3 January 2018. The subsequent version, coming into effect on 13 May 2019, said:

***"Operational implementation***

*All staff who have direct interaction with a client will have a responsibility to implement this policy. A client can be considered vulnerable in any of the following scenarios. If there are any concerns as to whether a client should be deemed vulnerable, a member of the compliance team should be consulted to determine the outcome.*

*The scenarios include;*

- *A client specifically asks for the account to be closed and not reopened, i.e. 'please close my account and do not let me trade again'.*
- *A client requests an exclusion for a set period of time. In this case further discussion should be held with the client to understand the reasoning for the change, and whether they should be closed for the request time or considered for a permanent closure.*
- *A client makes IG aware of information which falls within a categorisation whereby holding an account may not be in their best interests. Examples of indicating vulnerability would include a client mentioning, or requesting a closure for:*
  - *Trading was causing physical or mental health issues*
  - *Trading was compulsive, and they were unable to stop*
  - *Trading was causing more financial losses than the client could afford, and this was subsequently causing them harm*
  - *Client is borrowing funds in order to trade*

*In all scenarios the employee should:*

*Close the client's account and set to a status code 78 'Vulnerable client'."*

***What this means for Mr A's complaint***

IG had an obligation to have regard for Mr A's interests and treat him fairly. In particular IG needed to ensure it treated its vulnerable customers fairly. But there were no specific regulatory obligations with regard to the monitoring of Mr A's account, or set steps IG needed to take if it thought he was vulnerable.

The case law in *Quinn* is, in my view, clear that the obligations to consider Mr A's best interests didn't extend to a general obligation to prevent him causing himself economic harm. And as the judge set out at paragraphs 88 and 91, COBS 2.1.1R specifically didn't mean that IG had any obligation to prevent Mr A placing bets.

While Mr A opened his account before COBS 10 came into effect, I'm satisfied that due to the implications of COBS 10.4.3R (that Mr A was to be taken to have the knowledge and experience in order to understand the risks of spread betting) mean that the judge's comments in *Quinn* which relate to clients who've been assessed as appropriate apply to Mr A as if such an assessment had in fact taken place.

I've gone on to consider IG's own policies carefully. All versions of the policy suggest that staff, and therefore IG as a whole, needed to be on the lookout for signs of problem gambling, or related vulnerability. But I think it's important that under none of the versions of the policy do the implementation steps involve IG taking action such as closing an account without direct input from the client themselves.

The scenarios in the 2019 version all involve some variation on the client asking to have the account restricted or disclosing information. In the 2018 version the guidance is to act *"were a client to mention any of the above factors"*. And the Responsible Gambling Policy sets out that courses of action become available *"should a client admit to having a problem"*.

While not in the policies, IG has also explained that it periodically asks clients to confirm their earnings and savings. It has said this is partly to ensure clients remain in their target market. IG has said that *"If the client were to declare figures that trigger our controls our system would then flag the client and we may act to restrict the account pending further evidence of the client's financial wellness."*

So I'm satisfied that IG was aware of the risk its products could pose to those with a gambling problem or related vulnerability. While its policies largely relied on disclosure by a client, it gave guidance on possible signs of vulnerability or problem gambling. I think this was consistent with its regulatory obligations to treat its vulnerable customers fairly, bearing in mind the guidance in FG 21/1.

I don't, however, think that Mr A's trading or account, or his interactions with IG, ought to have triggered the specific steps under any of the policies. Mr A, by his own admission, didn't disclose any issues with IG until 2020. I've seen no evidence that Mr A's trading was erratic or that he'd had card payments declined. Mr A made a large number of bets, they were of varying sizes in various markets but I don't think there were large variations in the size or markets traded such as to have given IG reasonable cause for alarm.

I've also given considerable thought to the other factors Mr A has raised which aren't specifically detailed in IG's policies. In particular, his deposit frequency, trading volumes, and scale of losses. In doing so I find this matter to be particularly finely balanced. And I'm mindful of not being swayed by hindsight. That I now know Mr A had a vulnerability with gambling, shouldn't cloud an objective assessment of what his account activity ought to have told IG over a period of time.

I agree that Mr A was a high volume trader. He placed nearly 40,000 trades over 16 years, and made over 3,000 deposits to his account. While these factors could be indicative of someone with a gambling problem, they would also be consistent with someone in control who simply trades a great deal. I accept that Mr A's numbers may be particularly high – but someone with the knowledge to understand the markets and the financial means to support their trading may well trade and deposit with that frequency.

Mr A did lose substantial sums trading with IG. But I'm not currently persuaded those losses ought to have triggered further action on IG's part, either. IG has said it has records of four occasions when it asked Mr A to provide details of his financial situation. In March 2009 he told it he was earning £28,000 a year, with savings of £240,000. In February 2015 he said he was earning £50,000 and had £150,000 saved. And then in January 2017 and January 2018 he said he was earning £37,500, and had savings of £30,000 and £37,500 respectively.

I've thought about this in the context of Mr A's trading losses. Between 2009 and the start of 2015 Mr A lost around £175,000. But at that point still told IG he had £150,000 in savings. By the start of 2017, he said his savings had fallen to £30,000, and in that time he'd lost about £30,000 with IG. His declared savings increased slightly the following year, during which time he'd lost a further £22,500 trading.

So over this period, I think Mr A was objectively a high volume trader who had suffered cumulatively quite high losses. But his financial situation had fluctuated not entirely in line with his trading fortunes (such as in 2017 where he declared an increase in wealth despite losing £22,500) and I'm not persuaded IG ought to have considered Mr A was losing more than he could afford to.

The situation in 2018 and 2019 is less clear cut. In those years Mr A's trading jumped sharply. After trading 1,500 times in 2017, he placed over 4,000 trades in 2018 and nearly 5,000 in 2019. These were his two highest volume trading years. IG doesn't appear to have asked Mr A about his financial situation after January 2018. But in 2018 and 2019 he lost a combined £80,000. This was more than twice Mr A's declared wealth at the start of 2018, and with his declared salary of £37,500 ought, in my view, to have made IG begin to question whether he was losing more than he could afford to.

At the same time, having never used a credit card to fund his account before, around 40% of Mr A's deposits in 2018 and 2019 were made using a credit card. While I accept people can use credit cards for convenience, I think the combination of factors here – a marked increase in trading volume, losses way in excess of declared wealth, and substantial deposits from credit cards – when taken together ought to have given IG pause.

One of the categories IG identified in its 2019 Vulnerable Client policy where "*an account may not be in their best interest*" is where a client makes IG aware of information that *"Trading was causing more financial losses than the client could afford, and this was subsequently causing them harm"*. My view is that IG should have been aware there was a chance this might be the case by the end of 2019.

The question remains what would or should have happened, had IG identified this potential vulnerability sooner. In one sense this was unfortunately for Mr A, too little too late. While he did suffer some further losses in early 2020, by this stage the vast majority of his losses had already been suffered. But I've thought carefully about what I think would – and wouldn't – have happened.

IG's policies generally only triggered action – account restriction or closure – when a client made a disclosure. And in its submissions it talked about where controls were triggered IG may look to do something *"pending further evidence of the client's financial wellness"*. So I don't think there's enough here to say IG could and should have instantly closed Mr A's account in late 2019. Based on its own testimony I think it's more likely than not that IG would have asked Mr A about his trading, and/or for evidence of his financial situation.

Mr A has said himself that at that time he was *"almost 100% certain that I would not have warned IG to my addiction"*. And while Mr A was using credit cards at that point, from what I've seen I'm not currently persuaded he would have disclosed anything which would have meant IG wouldn't have allowed him, reasonably, to continue trading.

Taking all that into account, while I think Mr A's account activity ought to have alerted IG to the *potential* of an issue, bearing in mind IG's own policies, the relevant rules, regulations and case law, unless Mr A disclosed something about his vulnerability I'm not currently of the view that IG would, or ought to have restricted Mr A's trading and prevented the subsequent losses he suffered. And I don't think on balance that Mr A would have made such a disclosure.

I appreciate that this goes to the heart of the "catch-22" which Mr A has referred to and which he sees as the source of the unfairness he's suffered. On one hand I agree – there was something of a catch-22 in that he needed to disclose something which he says he never would have.

But I have seen a number of cases involving clients with gambling issues who had at varying stages made disclosures to financial firms. And so I don't think it was an impossible scenario – albeit that for Mr A in particular it might have been unlikely. I also have to give weight to the fact that this need for disclosure was to a degree built into the legal and regulatory framework at the time. Overall, for the reasons set out above, I'm not currently persuaded that it would be fair and reasonable for me to say IG ought to have proactively curtailed Mr A's trading earlier than it did.

IG confirmed it had nothing to add to my provisional decision. Mr A made further submissions, which were, in summary:

- IG didn't deal with his complaint fairly. In particular, it denied him access to correspondence between him and IG while he had his account, and records of his account activity.
- Without being able to investigate this evidence Mr A wasn't able to mount a fair defence – and he questioned whether there was a *"smoking gun"* IG was keeping from him.
- He noted the case law I'd referred to but pointed to another case where a bookmaker was required to pay money to a problem gambler for failing to adhere to the Gambling Commission's Social Responsibility Code.
- I'd said IG's own policies said its staff should be on the lookout for signs of problem gambling – and one way it could have done that was through regular contact. But despite Mr A's high trading volumes and losses, there was no evidence of contact from IG beyond promotional calls.
- His increasing volume of deposits was a particular warning sign. He didn't agree with my conclusion that while they were high, they were normal for a high volume trader.
- Mr A would have liked to interrogate this further, but IG refused to give more detail about where he ranked in its highest volume traders.
- Both I and IG gave a lot of weight to Mr A's declared earnings and savings. He wanted to see what exactly he'd provided to IG, along with other client information.
- Mr A's assertion that he wouldn't have disclosed his issues should be qualified that Mr A himself now can't know what he'd have done or said at the time. His ability to give evidence about that is hampered by IG's restriction on his ability to access the emails and account information for while he was trading with the firm.

**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 done so, I've not been persuaded to depart from my provisional findings or conclusions, and so make those findings and conclusions final.

I'd like to thank Mr A for his detailed and considered response to my provisional decision. I've thought carefully about the points and arguments he's raised. And I reiterate that this has been a particularly balanced and complex decision to reach.

I hope Mr A doesn't take it as a discourtesy that I don't directly address each and every point he's made here. The purpose of my decision is to give my conclusions and reasons for reaching them, and so that's what I'll do. I will first address the set of arguments Mr A has made about the provision of information from IG after he complained, before covering some of the other specific things Mr A said in response to my provisional decision.

I appreciate Mr A's frustration here. He was attempting to piece together what happened during his trading with IG and feels that IG's refusal to share some information with him has hampered his ability to do so. I would point out that our service can only decide issues relating to the regulated activity in question – by which I mean that we can't comment on complaint handling issues in isolation.

But I understand that part of Mr A's frustration in how IG handled his complaint relates to the substance of the matter at hand – because he says it deprived him information he needed to build his case. I've considered this carefully, mindful of the principles of natural justice and Mr A's right to fair consideration of all relevant evidence.

And ultimately, I'm not persuaded that anything Mr A feels IG have failed to provide is likely to have a bearing on the overall outcome of this complaint. Once Mr A came to our service, we – as an impartial dispute resolution scheme – were required to, and have, sought to gather all evidence from both parties that we think relevant in order to resolve the dispute.

I am satisfied that I've seen enough to be able to reach the conclusions I have, and that both parties have had sight of the key evidence I've relied on.

Our service is obliged to resolve complaints quickly and with minimum formality. I acknowledge that this complaint, due to its complexity, has already taken a long time to resolve. And while I think its appropriate to test the evidence of the parties, I think it's also reasonable to accept evidence at face value from regulated firms unless there is a reason not to do so.

I think this is relevant in relation to some of the particular things Mr A wanted IG to provide. Mr A wanted to see all the emails between him and IG, but IG has confirmed there were over 20,000 of them. I think it's highly likely that most if not all these emails will be automated trade confirmations, confirmations of deposit etc. I'm not persuaded that seeing those is likely to change the findings I made in my provisional decision regarding the key questions this complaint requires me to answer.

I'm satisfied I have enough evidence and information about Mr A's account, his trading, and his communications with IG, to have reached the conclusions I did in my provisional decision. I emphasise that while I haven't upheld Mr A's complaint, I have agreed with him that IG ought to have picked up on the potential he had a gambling related vulnerability sooner than it did. The rationale I gave for why I didn't think IG needed to compensate Mr A – that even if it had done, it wouldn't likely have led to it stopping him trading – would, in my view, apply even if those emails showed that IG perhaps ought to have realised sooner than the point I identified in my provisional decision.

I find similarly in relation to a couple of Mr A's other points. Mr A wants to see exactly what he provided to IG about his income, and other client information. IG's not been able to provide that information in quite that form. But from its system screenshots I'm satisfied that on balance it is more likely than not that Mr A provided some figures which were logged on IG's systems at the relevant times and are now reflected in its records. I've no reason to doubt that those figures I referred to in my provisional decision are the figures Mr A gave IG.

In the same way, I don't think it is likely to change things if Mr A knew in more detail where he ranked in IG's highest volume traders at any given time. Even if he was IG's biggest trader, and was overall losing money, that doesn't mean IG ought to have jumped to the conclusion he may have been vulnerable, for the reasons I gave in my provisional decision. As I set out, Mr A's volume of trading and deposits *were* relevant things for IG to be thinking about, and I gave my view on the point at which I think Mr A's trading activity ought to have given IG pause. I don't think the precise ranking of Mr A amongst IG's clients is likely to change any of my findings on that issue.

I have noted the court case Mr A referred to. I'm afraid I don't find that it helps his case here. The facts of that case were very different – relating as they did to a pure bookmaker and not an FCA regulated financial services body, and so was grounded in a very different set of regulatory rules. I also note that more recent case law, even in the realm of bookmakers, has hardened the court's stance when it comes to duties owed by bookmakers to those with gambling related vulnerability. In particular I'm mindful of the recent case of *Mr Lee Gibson v TSE Malta LP (t/a Betfair) [2024] EWHC 2900 (Comm).*

I've also considered the relatively low levels of contact between Mr A and IG while he operated the account. While I agree with Mr A that more contact may have led to IG discovering Mr A's vulnerability earlier, I am unable to conclude that it was unfair or unreasonable for IG not to have been in more regular, detailed contact with him.

Mr A's account was an execution only one, with IG's role to facilitate the trades Mr A asked it to. As I explained in my provisional decision, at least until 2018, I am not persuaded Mr A's account activity ought to have raised IG's concerns that he might have been vulnerable or losing more than he could afford. So I can't see a reason why I'd say IG ought to have been contacting him more until that later stage of his account operation.

Ultimately I have an enormous amount of sympathy for Mr A, and the financial situation he has found himself in as a result of the losses he's suffered trading. But for the reasons I've given here and in my provisional decision, I can't fairly say that IG caused those losses, or that it would be fair for me to require IG to reimburse Mr A for them.

**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 A to accept or reject my decision before 8 August 2025.

Luke Gordon
**Ombudsman**