DRN-6069459

The complaint

Mr S complains that Admiral Markets UK Ltd ("Admiral") classified him as an Elective Professional Client ("EPC") when it should not have done so under the relevant rules, and then later closed his account without reason. He says the incorrect EPC classification led to him suffering losses he would not otherwise have suffered and the account closure caused him upset. He feels he should be compensated for the loss and the upset.

Background

Mr S held a Contract for Difference (CFD) trading account with Admiral, which he opened in May 2016. In July 2018 the European Securities and Markets Authority (ESMA) introduced a restriction on the amount of leverage CFD providers could offer to retail clients. Mr S says that around this time, the Admiral dashboard alerted him to the option of obtaining EPC status, to enable him to continue to access high leverage, and he called his account manager to enquire about this.

Mr S says he was asked a few questions about his trading and overall work experience, and was given a brief explanation of the application process for EPC status. He says the account manager then asked him to provide proof of his employment in the financial sector and proof he had completed at least 10 transactions in CFDs or related markets during the previous year.

On 29 July 2018 Admiral wrote to Mr S as follows:

"*We thank you for your request to be categorized as a professional client. We are pleased to inform you that we have assessed your request and, on the basis of the information we have about your expertise, experience and understanding of the product, you will be categorised as an Elective Professional Client in relation to trading CFDs.*"

From this time until July 2024 Mr S traded with Admiral with an amount of leverage which was only available to EPCs.

On 25 June 2024, Admiral sent Mr S an email, asking for a proof of address. In response to this, he uploaded a bank account statement to Admiral's portal on 26 June 2024. On that same date, Admiral asked Mr S to complete an appropriateness test, which Mr S says he was told was required to be eligible for continued EPC status.

On 16 July 2024, Admiral emailed Mr S about an EPC "Client Status Regular Update", asking him to upload documents to show he met the relevant criteria for an EPC. On 25 July 2024, Mr S provided a response to this, giving Admiral permission to look through his trading history with it and attaching what he had previously provided on 25 July 2018 to show his work history. On the same day, Mr S received a letter from Admiral's compliance team which explained it wished to give notice it was terminating its relationship with him, and would cease to provide its service to him from 8 August 2024.

Mr S then made his complaint to Admiral. Admiral did not respond. So, Mr S referred the complaint to us. One our investigators looked into the complaint and concluded it should be

upheld. He said he was not persuaded Admiral had taken sufficient steps to ensure Mr S met the criteria for classification as an EPC, and that it did not appear Mr S met the criteria. On the subject of fair compensation, he said:

- On balance Mr S would more likely than not still have placed the same trades if he had remained as a retail client. So, it wouldn't be fair to direct Admiral to refund all his losses, as these were down to his trading choices not his client status.

- But Mr S was able to trade with greater leverage. This means Admiral facilitated him losing more money than he would otherwise have done, as he traded as an EPC without the greater protection afforded to retail clients.

- So, Admiral should rework the trades Mr S placed from the point of recategorisation as an EPC as if he had instead remained categorised as a retail client for the period in question.

- It should then compare the total Mr S would have lost as a retail client to what he lost as a professional client and pay him any difference, plus interest.

Admiral did not accept this view. It said, in summary:

- Before ESMA's 2018 rules, Mr S traded with professional leverage under industry standards.

- Following ESMA's intervention, Mr S provided documentation that met the 2018 requirements.

- Regulatory expectations have since evolved, requiring stricter due diligence.

- Its compliance review found Mr S's documentation insufficient under updated FCA/ESMA standards.

- Source of funds inconsistencies were identified, leading to account termination.

- Mr S's complaint appears to be motivated by trading losses rather than a genuine concern about misclassification.

- Mr S's complaint falls outside FCA DISP regulatory limits.

That final point was considered by the investigator, and then one of our ombudsmen, who decided the complaint had been made in time and was, accordingly, one we could continue to consider. The complaint was then allocated to another investigator, who reviewed the view of the original investigator.

The new investigator reached the same conclusions as the initial investigator on the EPC classification but a different view on what amounted to fair compensation. She said, in summary:

- It is clear that Mr S was trading for a significant time. Enough that it would be reasonable to conclude that he had gained sufficient understanding to assess whether trading at the increased leverage was in his best interest. He was also aware he could ask to place trades as a retail client if he felt that he no longer qualified for EPC.

- In addition, there is no evidence that shows Mr S wanted to stop trading at the higher leverage until his complaint, and his account closure was not initiated by him. So, she did not think it was fair for her to ask Admiral to refund all losses.

- She was therefore recommending Admiral pay 50% of the amount of compensation the previous investigator had recommended.

- She was also recommending £250 compensation for the trouble and upset Mr S experienced, as she could see that he had suffered significant stress as a result of this complaint.

Neither party accepted this view. Mr S said, in summary:

- Admiral has breached many of the regulator's rules, and the investigator has failed to fully take account of this.

- It is not fair to apportion blame or punishment to him for Admiral's mistakes. He would not have lost as much money as he did had Admiral not incorrectly categorised him.

- He did not realise the EPC status was magnifying his profit and loss. Had he done so, he would have asked to trade as a retail client. He though it just meant lower margins and lower capital requirement.

- The investigator's view allows Admiral to keep 50% of the profits it made through breaking the regulator's rules.

- The only fair and reasonable outcome is that proposed by the original investigator.

Admiral said Mr S had explicitly applied for EPC status, and referred to the risk warnings he was given at the time.

Having carried out an initial review of the file, I noted that Admiral had referred to "*inconsistencies in the source of funds*" and that the bank statement uploaded to Admiral's portal on 26 June 2024 appeared to have been the trigger for the review of Mr S's account and its ultimate closure. In the light of this, I asked Mr S for:

- A copy of the bank statement he uploaded.
- Details of how he funded his account, and some examples of the details he submitted to Admiral between 2018 and 2024.
- Details of his income and savings were at the time he opened his account with Admiral, as well as his total net worth.
- Whether there was any significant change to his income and net worth between 2018 and 2024.
- If he could recall discussing his personal and financial circumstances with account managers at Admiral at any time.

In response, Mr S provided a copy of the bank statement and said, in summary:

- It is not correct to say there were inconsistencies in the explanations he gave for the source of his funds, or that he did not provide documentation relating to this.

- Initially, his account was funded by the small sum of money he had available through his employment. Later, his account was funded by gifts from his partner's mother. He

made Admiral aware of this in October 2018.

- He provided Admiral copies of his bank statements whenever a deposit was made.

- When he opened his account he had an annual salary of around £25,000 and a total net worth of around £1,000. Later, this decreased as he was unemployed; and he told Admiral this.

- In late 2020, Admiral suddenly asked him to resubmit all the information he had provided previously about the source of the funds he was trading etc, and it had been very difficult for him to obtain this, as he and his partner were experiencing relationship problems.

- A few months later he was again asked to provide information about the source of funds, going all the way back to when his account had been opened. He was told this was a compliance check.

- He did then not trade for a while but was encouraged to start trading again by a new account manager. He had told the account manager at the time that he had not been trading due to personal problems.

My provisional decision

I recently issued a provisional decision, concluding the complaint should be upheld. In summary, I said:

- Mr S should not have been classified as an EPC, as he did not meet the definition of an EPC set out in the relevant rules at the time.

- Admiral should have identified reason to close Mr S's account much sooner than it did. It had sufficient information available to it in 2018 to recognise it was not consistent with its regulatory obligations to continue to offer its services to Mr S.

- It was fair to ask Admiral to compensate Mr S, in the circumstances, by reworking trades for a period when he was incorrectly classified as an EPC and cancelling any trades made after it had reason to conclude it should no longer offer Mr S its services.

Responses to my provisional decision

Mr S accepted my provisional decision. Admiral did not. It said, in summary:

- The provisional decision appears to conclude that Admiral did not take sufficient steps to ensure Mr S met the criteria for EPC status in July 2018 and that he did not meet those criteria. It maintains that the categorisation was appropriate and compliant with the regulatory requirements in force at the time.

- Mr S traded as an EPC for over six years with full awareness of the reduced protections and higher risks. He was repeatedly reminded of his right to revert to retail status but chose not to do so.

- There was no coercion or financial incentive from Admiral to direct Mr S towards higher leverage. Mr S had full control over leverage settings.

- Professional leverage did not compel Mr S to take larger positions, nor did it automatically cause higher losses. Mr S retained full discretion over his position sizing at all times and could reduce exposure voluntarily without restriction. Admiral did not impose minimum trade sizes or require the use of maximum leverage.

- Any attempt to rework losses on a hypothetical “retail leverage” basis, relies on assumptions about how Mr S might have traded differently, rather than how he actually traded.

- Mr S opened another trading account with Admiral’s Jordan (a different jurisdiction) business, where he chose to utilise the same higher leverage.

- It would not be fair or reasonable to hold Admiral responsible for losses arising from Mr S's informed and voluntary decision to trade at higher leverage with Admiral over six years of trading.

- The provisional decision appears to assume that professional client status caused additional losses. It does not consider that this causal link has been established.

- There is no evidence that Mr S wished to reduce leverage, Admiral prevented or discouraged such a change or Mr S was unaware of the risks associated with higher leverage.

- The account was terminated in August 2024 due to unresolved concerns over source of funds, in line with its AML obligations. This was unrelated to client categorisation. Despite multiple requests, sufficient verifiable documentation was not provided. The upload of a bank statement in June 2024 triggered a routine compliance review, which highlighted inconsistencies.

- The provisional decision references an earlier potential closure date (November 2018) linked to affordability/unemployment. However, Mr S continued to deposit and trade (funded primarily by third-party gifts), and no such closure was required at that time based on the information held. Third-party deposits in retail trading did not automatically indicate vulnerability or prohibit service.

- The 2018 declaration that funds were sourced from third parties was reviewed for AML purposes, and no concerns arose until inconsistencies in 2024 triggered a SAR. Mr S declared a modest but positive financial capacity at account opening.

- To retrospectively adjust losses would require speculative assumptions. Such assumptions cannot be evidenced from the trading records and risk replacing actual trading outcomes with a hypothetical scenario. This would, in effect, transfer normal market risk to Admiral.

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 have not been persuaded to depart from my provisional decision. And, in my view, Admiral’s response to my provisional decision mostly repeats its previous submissions. So, I largely repeat my provisional findings below, as my final decision.

I am required to make my own independent determination of this complaint by reference to

what I consider to be fair and reasonable in all the circumstances of the case. When considering what is fair and reasonable, I am required 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.

The focus of Mr S's complaint is the EPC classification, but it also encompasses the closure of his account. Having considered the available evidence, whilst I appreciate Admiral may have, coincidentally, been reviewing EPC statuses at the time of its review of Mr S's account, I am not persuaded that the review of Mr S's account was a routine one, or that a changed view on Mr S's EPC status was the reason for the account closure.

As a service we have an inquisitorial remit; and consumers are not expected to plead their case, as they would in court. In the light of this, and what I say above, I think it is appropriate to consider Admiral's closure of Mr S's account and what may have led to this as well as, if necessary, the EPC classification.

In my view, the below are the key relevant considerations to deciding what is fair and reasonable in this case, which are Admiral's relevant regulatory obligations, set by the relevant FCA rules.

The Principles for Businesses, which are set out in the FCA's Handbook "*are a general statement of the fundamental obligations of firms under the regulatory system"* (see PRIN 1.1.2G). The Principles apply even when the regulated firm provides its services on a non-advisory basis, in a way appropriate to that relationship.

Principles 3 and 6 are of particular relevance here. They provide:

"*Principle 3 – Management and control – A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.*

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

COBS 2.1.1R - "*A firm must act honestly, fairly and professionally in accordance with the best interests of its client*" – is also, in my view, relevant here.

And there are specific rules relating to assessing the appropriateness of a CFD trading account for a consumer (COBS 10.2.1R) and EPC classification (COBS3.5.3R, the relevant parts of which I quote below).

It seems the events in 2024 began with a request from Admiral to Mr S for a proof of address, which Mr S answered with the upload of his bank statement to Admiral's online portal on 26 June 2024. As mentioned, Mr S has provided a copy of the bank statement he uploaded. I remain of the view the contents of this is likely what led Admiral to review Mr S's account, rather than any routine process.

Setting aside, for now, the EPC rules, and accepting that Mr S completed an appropriateness test when the account was opened which appears to have been broadly consistent with that the rules required, I think, with its general regulatory obligations in mind, Admiral should have reasonably identified reason to conclude it would not be consistent with those obligations to continue offering its services to Mr S, once it had seen the bank statement.

The bank statement shows that Mr S had no obvious source of income, more or less ran the account with a zero balance, and may have been in financial difficulty. It also suggests a

reliance on third parties for money; primarily his partner or his partner's mother.

In my view, the contents of the bank statement ought to have led Admiral to consider whether it would be consistent with its regulatory obligations to allow Mr S to continue to trade CFDs, at any amount of leverage. The bank statement suggests trading as he had been was wholly unaffordable for Mr S and that he, in fact, had no capacity for loss at all. I think the fact he was trading money paid to him by his partner's mother (and seems to be reliant on third party payments generally) should also have been seen as a "red flag"; it should have offered a basis on which Admiral should reasonably have concluded it should not be offering CFD trading services to Mr S.

I remain of the view that, in practice, the bank statement did have this effect. I note Admiral says, in its response to my provisional decision that it was for anti-money laundering reasons, without giving any further detail; but also that the first step it took, after seeing the bank statement, was to ask Mr S to complete an appropriateness test. So, it remains unclear on what basis the account was closed. But Admiral nonetheless closed Mr S's account shortly after receiving the statement, and the closure does not appear to be related to any review of Mr S's EPC status, which seems to have run in parallel to a consideration of whether it should offer Mr S its services at all.

I also remain of the view the available suggests Admiral ought to have identified similar reasons to consider whether it should be offering its services to Mr S at a much earlier stage. I say this because it seems much of what is suggested by the bank statement was known – or should reasonably have been known - by Admiral at a much earlier stage.

Mr S says he told Admiral throughout his relationship with it that his account was being funded by what he describes as gifts from his partner's mother. Also, that he told it he was not working. He also says he provided Admiral with copy bank statements each time he funded his account. And he has provided a copy of a "*Investment Assets Origin Declaration*" dated 28 October 2018, in which he declares the origin of his investment assets to be "*wife and mother-in-law*". I note Admiral has not disputed any of these points.

Admiral says, in its response to my provisional decision, that Mr S declared a modest but positive financial capacity at account opening. However, the original account application only recorded that Mr S had "*income and liquid assets*" of "*up to 25 000*" and an "*estimated net worth*" of "*up to 50 000*". And the appropriateness test only recorded "*annual income*" of "*up to 25 000*" and "*liquid assets*" of "*up to 25 000*". In each instance these were the lowest of the tick-box categories set out by Admiral. So, Admiral had limited details about Mr S's financial circumstances and should have been on notice from the outset, given that the answers provided could have meant he had very little or nothing, that Mr S had a limited – potentially very limited – capacity for loss. His liquid assets and income were somewhere between zero and £25,000.

The information provided by Admiral shows total deposits under "Financial info" of Euro 108,934, and Euro 29,852 paid out (which includes withdrawals from another, overseas, account – the Jordanian one Admiral has referred to in its response to my provisional decision). The 2018 account statement shows that, in 2018, Mr S paid in £16,900, before signing the "*Investment Assets Origin Declaration*" on 28 October 2018, and lost all or the majority of the amounts he had deposited (as, it seems, he had previously).

I note Admiral says, in its response to my provisional decision, that the 2018 declaration was reviewed for anti-money laundering purposes, and no concerns arose until inconsistencies were identified in 2024. But it remains the case I have seen no evidence to show what was known by Admiral in 2024 differed from what was known by it in 2018. And it has not set out what inconsistencies it identified in 2024 that were not earlier known to it. I am not therefore

persuaded that Admiral knew any more in 2024 than it did in 2018.

So, overall, I remain of the view Admiral had sufficient information available to it long before 2024 to reasonably conclude it would not be consistent with its regulatory obligations to continue to allow Mr S to trade, both as an EPC (I will return to this point below), and more generally.

Even if a CFD trading account was appropriate for Mr S in principle, trading in the way he proceeded to, once the account had been opened, was clearly not affordable for him. And he appears to have quickly become reliant on what were described as gifts from a third party to fund trading which, as mentioned above, should, in my view, have been viewed as a "red flag"; particularly when Mr S was no longer working.

In my view, acting fairly and reasonably to meet its regulatory obligations, Admiral should have recognised long before it did that it would not be treating Mr S fairly or acting in his best interests – or taking reasonable care to organise and control its affairs responsibly – by allowing Mr S to continue to trade CFDs; whether as a EPC or a retail client.

I note Admiral says, in its response to my provisional decision, that third-party deposits did not automatically indicate vulnerability or prohibit service. To be clear, I make no such general finding. My finding is that, in the particular circumstances of this complaint, Admiral should have concluded it would not be consistent with its regulatory obligations to continue to offer its services to Mr S.

Rather than withdrawing its services Admiral instead, based on Mr S's recollections (which are, in my view, plausible), appears to have pressured Mr S, through its account managers, to make more deposits. That, in my view, was not fair and reasonable; Admiral should instead have recognised that, in the circumstances, it would not be consistent with its regulatory obligations to continue offering CFD trading services to Mr S. And taken the step it eventually did, in closing Mr S's account.

I acknowledge that Mr S traded for a long period of time and, despite suffering losses, continued to trade. I also acknowledge that Admiral provided Mr S with risk warnings, and that he declared he had read and understood these.

However, it was simply not consistent with Admiral's regulatory obligations to continue to facilitate Mr S's CFD trading, in the circumstances. Regardless of his appetite to trade and understanding of risk, it simply should not have allowed Mr S to trade in circumstances where he had no income, no savings, and appeared to by funding his trading using his partner's mother's funds (which were declared as being gifts).

I do not say Admiral should not have provided any CFD trading services from the outset. But it should have been mindful of the limited – potentially very limited - resources Mr S declared having at the outset and reconsidered whether it should provide a CFD trading service once Mr S's deposits became inconsistent with his declared circumstances, it became aware of source of funds, and of his unemployment.

Based on the available evidence, I conclude Admiral should have closed Mr S's account within 14 days (which appears to have been the notice period under the terms of the account) of 28 October 2018. By that point, Admiral was aware that Mr S was trading funds he said he had been gifted by his partner's mother, and that he was trading in a way which was inconsistent with his circumstances (i.e. was clearly not affordable for him).

So, my conclusion is that it would be fair and reasonable to ask Admiral to cancel any trades placed by Mr S after this time. I will set out below what that means in terms of fair

compensation.

As set out above, Mr S became an EPC on 29 July 2018. So, given my conclusion above, I also need to consider that EPC classification, as there is a period before 11 November 2018 (i.e. 14 days from 28 October 2018) during which Mr S traded with an amount of leverage only available to an EPC.

In respect of the EPC classification, I remain of the same view of the investigators, for the same reasons. Mr S clearly did not meet the criteria to be classified as an EPC. I again emphasise this is based on the rules as they were at the time; and that those rules have not, in any event, evolved or charged, as Admiral suggests – they are the same now as they were in 2018.

At the time of Admiral Markets' initial EPC assessment of Mr S the relevant FCA rules (COBS 3.5.3R) said (with my emphasis):

"*A firm may treat a client other than a local public authority or municipality as an elective professional client if it complies with (1) and (3) and, where applicable, (2):*

1. the firm undertakes an adequate assessment of the expertise, experience and knowledge of the client that gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making his own investment decisions and understanding the risks involved (the "qualitative test");

2. in relation to MiFID or equivalent third country business in the course of that assessment, at least two of the following criteria are satisfied:

> *(a) the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters;*
>
> *(b) the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR500,000;*
>
> *(c)* ***the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged****;*

(the "quantitative test")"

In respect of (2), Mr S was recorded as meeting (a) and (c). In support of this, Admiral was provided with screen prints from a CFD trading account and a copy of Mr S's CV.

Setting aside the trading screen prints provided to meet (a), the CV shows Mr S clearly does not meet (c). Mr S had, from May 2011 to August 2013, worked for a bank. But he had done so as an IT Support Analyst. And it is clear from the job description and the contents of Mr S's CV otherwise, that he had not worked in a professional position, which requires knowledge of the transactions or services envisaged.

As I have already set out, Mr S had limited assets. So, he could not meet (b) of (2). He should not therefore have been classified as an EPC and should not have had access to higher leverage from 29 July 2018 to 11 November 2018 when, in my view, his account should have been closed. I will set out below what that means in terms of fair compensation.

Fair compensation

In respect of Admiral continuing to offer CFD trading services to Mr S when it had reason to conclude it would not be consistent with its regulatory obligations to do so it is, in my view, fair to ask Admiral to refund the net loss Mr S suffered from 11 November 2018 until his account was eventually closed. So, Admiral should pay Mr S the total amount of that loss.

In respect of the EPC classification, I acknowledge Mr S did trade at the higher leverage amount and he did not of course have to do so; it was his choice. And I also note he had another account with Admiral in a different jurisdiction on which it says he traded with higher leverage (although no further details have been provided about this).

However, I remain of the view it would not be fair, in the circumstances, to make any reduction to this part of the redress on the basis of Mr S having contributed to the loss. The period over which he traded as an EPC, before Admiral should have closed his account, was a relatively short one and, whilst I note he had another account on which Admiral says he traded at a higher leverage, there was simply no basis on which he should have been able to trade this account as an EPC. So, overall, in the particular circumstances of this case, I think the fair outcome would be to ask Admiral to rework the relevant trades at a retail client leverage and pay Mr S any difference. So, Admiral should rework any trades placed using leverage only available to EPCs from 29 July 2018 to 11 November 2018.

To be clear, this simply asks Admiral to reduce the size of the relevant positions. I am not asking Admiral to speculate as to whether Mr S would have traded differently otherwise, with reduced leverage. It should be assumed he would have taken the positions he did, but only to the extent that he would have been able to under the retail client leverage.

I remain of the view it would not be fair to ask Admiral to pay a return on these amounts. I am not persuaded is fair, given Mr S engaged in high risk trading with this money. For similar reasons, I do not think it fair to award compensation for upset. I do not doubt Mr S has suffered upset but, in circumstances where he continued to trade despite suffering losses he could not afford and where I am recommending he be refunded the majority of his trading losses, I do not think it would be fair to ask Admiral to pay compensation for upset.

My final decision

For the reasons given, I uphold the complaint. Admiral Markets UK Ltd should calculate and pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 February 2026.

John Pattinson
Ombudsman