DRN-6125489

The complaint

Miss S complains that CMC Spreadbet Plc have treated her unfairly and unreasonably throughout her trading relationship with them.

To put things right for her, Miss S would like CMC to refund the trading losses she's incurred.

What happened

Miss S opened a spread betting account with CMC in 2023 and added her first payment into the account in March the same year. Over the months that followed, she traded on a frequent basis; initially her bets yielded modest profits until she found herself losing all of the funds she'd deposited.

In July and August 2024, Miss S decided to formally complain to CMC. In summary, her main concerns were that:

- CMC "failed to provide adequate safeguards, clear warnings, or a proper assessment of my suitability, leading me into high-risk trading that I was ill-equipped to manage".
- There were issues with CMC's platform and practices and her experience with their Demo Account was misleading as it did not reflect real market conditions, giving a false impression of risk and trade execution.
- High-risk margin calls and psychological impact – "I was unprepared for constant margin call notifications on CMC's mobile app, which caused intense panic and irrational, impulsive trading decisions, leading to severe financial losses".

- There were repeated app logouts and malfunctions including some of the platform features like netting not functioning.
- There was a lack of any suitability assessment — “CMC failed to assess whether I had the necessary trading experience, technological skills or risk tolerance before allowing me to trade”.
- CMC encouraged a ‘chasing loss behaviour’ – “Due to my outdated trading knowledge, unknowingly engaged in a chasing losses pattern akin to gambling. I used all my savings and available credit, believing I was managing risk effectively, when in reality, I was being drawn into highly volatile and unpredictable market movements that I had no ability to control”.
- There were transparency, equality and fair treatment failings as well as customer care and personal data handling issues with CMC’s platform and practices.
- There had been a breach of terms — CMC had failed to investigate and communicate platform issues.
- There had been retaliatory account restrictions and unnecessary KYC requests made of her after she’d raised a formal complaint to CMC.
- CMC had failed to protect her trading data and there had been a potential data breach.
- There had been a lack of transparency and potential regulatory violations.
- She was concerned that there had been violations of the Equality Act along with potential ageism and discrimination.
- There had been aggressive advertising and harmful client re-engagement by CMC.

After reviewing Miss S’s complaint, CMC concluded they were satisfied they’d done nothing wrong. They also said, in

summary, there was no indication of misconduct or any regulatory breaches. While Miss S had raised multiple concerns and was clearly dissatisfied with her experience, CMC said that they had acted fairly, within regulatory expectations, and with appropriate sensitivity. The complaint was therefore not upheld.

Miss S was unhappy with CMC's response, so she referred her complaint to this service. In summary, she said CMC had treated her unfairly and unreasonably throughout her trading relationship with them. She also explained that CMC had failed to provide adequate customer support, failed to assess and accommodate her vulnerability, breached their terms and have poorly handled her account.

Miss S also told this service of multiple issues ranging from communication failings to CMC not acting to support vulnerabilities or provide a meaningful experience for those that require reasonable adjustments. She also set out concerns around GDPR issues and explained that she had a lack of knowledge but was allowed to undertake leveraged trading. And, she said, she had suffered severe financial, emotional and medical consequences as a direct result of her experience with CMC. She has found the lack of appropriate intervention and guidance from them to be shocking and negligent.

Miss S explained that CMC's refusal to accept her proposal for rescission of the agreement highlights their lack of accountability. She went on to say that as a minimum, CMC should provide financial redress for the losses incurred due to their platform's failures.

The complaint was then considered by one of our Investigators. After carefully considering what both parties had to say on the matter, he concluded that CMC hadn't treated Miss S unfairly. Miss S, however, disagreed with our Investigator's findings. In summary, she said that several critical points were omitted, misunderstood or mischaracterised, which materially affect the fairness and accuracy of the conclusions our Investigator has

made. She went on to say that the focus of her complaint remains:

1. The identification and accommodation of vulnerability during onboarding.
2. Misrepresentation of account appropriateness and execution-only platform limitations.
3. Inconsistent and unclear KYC requirements, including regulatory breaches and account restrictions.
4. Platform failings, loss of data and misleading demo account information.
5. Mischaracterisation of my communications and circumstances, including statements regarding gambling.
6. The financial and emotional harm caused as a result of the above issues.

Miss S went on to say that she doesn't believe the Investigator adequately addressed her concerns. The focus appeared to be on whether CMC met minimum regulatory requirements, rather than on the wider issues of FCA regulations and guidance, fairness and vulnerability. She said her complaint raised multiple interconnected factors including age, retirement, health challenges and possible language barriers, which were not considered. Miss S said that FCA guidance (in FG21/1) is clear that firms should take extra care when such indicators are present.

She said "I was initially reluctant to disclose this information, both to CMC and to the FOS, due to its highly sensitive and confidential nature. However, I believe it is vital to provide a full picture of my circumstances for a comprehensive and fair assessment of my case".

Details of vulnerable circumstances

Miss S provided details of her health conditions to this service. She went on to say that the cumulative effect of these compounding health issues was a period of significant personal and health-related challenges, which coincided with her interactions with CMC.

Connecting vulnerability to CMC's actions

Miss S said that “I contend that CMC failed to act with the appropriate level of care expected of a financial firm, especially given the high-risk nature of its products. My medical conditions and the treatments I undergo affected my capacity to accurately and effectively complete the application and appropriateness test. I was in a vulnerable position, and I believe CMC’s processes were deficient in the following ways:

- Lack of appropriate disclosure channels: There was no confidential and accessible way for me to disclose my health challenges and request appropriate support.

- Failure to establish tailored support: The firm failed to proactively identify signs of vulnerability or provide a mechanism for me to receive personalised and tailored support during my onboarding process.

- Exacerbation of harm: The lack of suitable support or disclosure options meant the firm was unaware of my circumstances, and its standard procedures therefore did not take my increased susceptibility to harm into account. By failing to consider potential vulnerability during the onboarding process, CMC Markets did not meet the standards set out by the FCA to treat vulnerable customers fairly. The firm's inactivity at this critical stage created significant problems and contributed to the harm I experienced.”

- Miss S explained that she’d told CMC of her retired status and the Investigator's oversight of this fact is a serious error.

The decision to undertake the investment, Miss S said, was to secure not only hers, but mainly her children's future, not for high-risk speculation. Miss S said that she believed CMC's marketing of spread betting as a 'tax-efficient opportunity' contributed to a misleading overall impression for her as a retail client, especially given her vulnerable circumstances at the time. The attractive messaging surrounding tax benefits guided her focus towards perceived gains, potentially downplaying the high-risk, leveraged nature of the product. When this marketing is viewed alongside the previously mentioned lack of clarity in their terms and conditions, and the absence of tailored support channels for vulnerable customers, it created an environment where, she said, she was unable to adequately comprehend the true risks involved, despite the presence of standard warnings. The firm's approach, from initial marketing to account opening, did not sufficiently safeguard a client in her position.

Miss S explained that her savings were modest, up to £20,000, and combined with her retired status and health issues, this placed her in a position of low financial resilience; this should have been a red flag for CMC, as any significant loss would have a devastating impact on her.

A flawed and unfounded appropriateness test

Miss S said that "CMC's reliance on its automated appropriateness test is unfounded. It was demonstrably flawed and failed to identify obvious contradictions in my onboarding declarations. I strongly dispute the claim that I declared 'relevant knowledge in trading from a directly relevant role and/or qualification.' My professional education is in [redacted by this service], offering no relevant foundation for complex financial products. The only prior experience I possess involved advised, old-style, non-leveraged stock trading from decades ago, an experience fundamentally incomparable to modern leveraged spread betting (I had no possibility to disclose it during application process). This strongly suggests the "relevant knowledge" declaration was either an error, a

misinterpretation, or a reliance on a vague statement without adequate due diligence on CMC's part. Additionally, I do not recall completing any “knowledge test” and I am unsure what exactly CMC is referring to: ‘*Passed knowledge test covering key risks, including leverage, margin trading, and derivative trading risks*’.”

Failure to act on contradictory declarations

Crucially, even if CMC insists this declaration was made, Miss S said that their system should have immediately flagged the contradiction with her simultaneous declaration of "No prior leveraged trading experience”. She went on to say that a truly compliant and robust appropriateness test would have mandated an investigation into this critical discrepancy, rather than simply permitting onboarding to proceed. CMC's failure to do so demonstrates a negligent approach to compliance, in her view.

Insufficient assessment of "Theoretical Knowledge"

Miss S stated that her "Theoretical Knowledge" was demonstrably insufficient for the product CMC offered. While she acknowledged “boilerplate” risk warnings during the application, this stemmed purely from theoretical understanding, not a practical or genuine comprehension of the complex risks involved. She said that as the FCA explicitly mandates that firms must ensure a customer *understands* the risks, not merely that they *read* a disclosure, CMC's process fundamentally failed to verify this, representing a critical failure of the appropriateness test.

A systemically flawed questionnaire design

Miss S said the structure of CMC's online questionnaire constitutes a systemic failure in gathering accurate customer data and the use of broad, bracketed responses for income (e.g. 'up to £50,000') and savings (e.g. 'up to £20,000') is inherently flawed, as it allowed CMC to make inappropriate, and potentially negligent, assumptions about a client's true

financial standing. As a retired individual with limited savings, her actual financial position resided at the *lower* end of the brackets selected, she said. Yet, CMC's questionnaire design enabled them to incorrectly assume higher earnings and savings, without any actual inquiry into specific details. In Miss S's view, this approach created an information vacuum that CMC appears to have deliberately filled with assumptions rather than factual data, purely to facilitate onboarding.

Egregious KYC failures

Miss S went on to say that this flawed questionnaire design makes CMC's subsequent failure to complete a full and proper Know Your Customer (KYC) check even more egregious. She said "The fact that I only received a request for detailed wealth and income information *after* a complaint was filed serves as a stark admission that the initial assessment was profoundly insufficient. Had CMC's initial process genuinely required specific and accurate financial information, they would have gained a more realistic understanding of my limited capacity for loss and would have been less likely to onboard me for such a high-risk leveraged product". She said that she should have had the opportunity to decide whether to share her sensitive financial information before engaging with CMC's service, but this option was taken away from her.

Breach of the FCA Consumer Duty and invalid volition

Miss S stated "CMC's reliance on the assertion that I traded "at my own volition" after receiving standard risk warnings is outdated and fundamentally insufficient under the FCA's Consumer Duty. Given my demonstrably vulnerable client status and low capacity for loss, the significant harm experienced was entirely foreseeable. CMC's flawed processes represent a clear failure to prevent this harm. My trading could not have been truly "informed" or "at my own volition" because CMC's negligent onboarding process failed to ensure I genuinely understood the product's risks. True volition is contingent upon the firm first meeting its duty to assess

appropriateness and inform the customer properly. The combined effect of a flawed appropriateness test, negligent KYC, and a questionnaire that facilitates assumptions rather than facts, unequivocally constitutes a systemic failure to protect a vulnerable client (in this instance, myself) from foreseeable and significant harm".

Retired status relevance in onboarding process

Miss S said that if a client states they are retired, this significantly impacts the "appropriateness test" regarding their financial situation and ability to bear losses. She also said that:

- Financial Situation: A retired status implies a potentially fixed income and reliance on savings or pensions. Firms are required to gather information on the source and extent of regular income, assets (including liquid assets, investments, and property), and regular financial commitments.
- Ability to Bear Losses: For a retired individual, losing a significant portion of their capital through high-risk trading could have a much more severe impact on their future financial security compared to someone with a substantial active income. The firm must assess if the client can *financially bear* the related investment risks.
- Enhanced Scrutiny: While not automatically triggering Enhanced Due Diligence (which is primarily for high-risk AML situations like PEPs), a retired status should trigger a more thorough review of the client's financial resilience and suitability for leveraged trading. Firms should be particularly cautious about recommending or allowing access to high-risk products where the client's capital is essential for their long-term living expenses.

In addition, Miss S explained that in her opinion, performing in-depth KYC (particularly financial and wealth assessment) *after* losses have been incurred, rather than during the onboarding process, represents a potential failure by

CMC to comply with both AML and regulatory obligations, especially for a retired client whose financial situation is a critical factor in determining the appropriateness of high-risk products like spread betting.

In response to our Investigator's view, Miss S also said, in summary:

Retirement as an indicator of vulnerability

"While CMC recorded my status as retired during the application process, they failed to consider the nuances of retirement, including that some individuals, like myself, are medically retired or retired under circumstances that may affect financial stability, decision-making or vulnerability. Different types of retirement, such as voluntary retirement, early retirement, medical retirement, or involuntary retirement can create very different financial and personal circumstances. CMC's failure to recognise or assess these distinctions represents another highly visible indicator of vulnerability that was missed, further demonstrating their lack of adequate due diligence and safeguarding measures."

Failure to identify vulnerability – Misapplication of FCA guidance

Miss S explained that in her opinion, both CMC and our Investigator appear to have overlooked or misapplied FCA guidance regarding vulnerable clients. The FCA's FG21/1 and PRIN 12 Consumer Duty make clear that firms cannot rely solely on clients to volunteer information about vulnerabilities.

Miss S said that CMC's onboarding process had clear indicators of potential vulnerability such as her retirement status, age and her non-British status; these indicators should have triggered additional checks and human intervention as mandated under the FCA's guidance for vulnerable customers (FG21/1).

Yet, despite this, Miss S said that CMC provided no onboarding call, guidance or structured opportunity for her to disclose these circumstances; instead, the firm relied entirely on her to volunteer highly personal and sensitive information. This passive approach, she said, which places the full burden of disclosure on the customer, is recognised by the FCA as an inadequate strategy that often fails due to customer embarrassment or reluctance.

In her opinion, the Investigator's conclusion that CMC had no obligation until she explicitly disclosed vulnerabilities fundamentally misrepresents the FCA's expectations. Both CMC and the Investigator ignored the requirement for firms under FG21/1 and the Consumer Duty to proactively observe and address potential vulnerabilities, and not just rely upon standard, automated, box-ticking processes. This omission materially affects the fairness and completeness of the complaint assessment and demonstrates a systemic failure by CMC to provide appropriate support to clients exhibiting indicators of vulnerability, Miss S said.

Miss S also said that while she agrees with the Investigator that execution-only providers are not required to give suitability advice, this does not remove their explicit duty under FCA rules to identify, consider and support vulnerable customers. She went on to say that the Consumer Duty specifically requires firms to deliver good outcomes for all customers, including those in vulnerable circumstances, regardless of the product or service type.

Responsibility to identify and accommodate vulnerability

Miss S stated that a financial services provider must proactively consider potential vulnerabilities during the application and onboarding process. This means asking additional, clear and accessible questions about health conditions, disabilities, life events or any other factors that may affect a client's ability to engage safely with the service. However, Miss S states that CMC did not do this; at the time of her application, the process

did not include any opportunity to disclose hearing impairments, life events or other sensitive circumstances. Unlike many financial services providers today, CMC did not provide a safe or confidential environment to share such information. Miss S said that this omission left her in the impossible position of disclosing highly personal details to an anonymous customer service email address (with no guarantee of confidentiality or sensitivity), or not disclosing at all and by failing to provide such a mechanism, CMC placed the entire burden on her to volunteer sensitive information in a way that was neither realistic nor safe.

Miss S also said "With my best intentions, I would have shared my [redacted by this service] impairment and possibly other circumstances if a safe and structured process had been in place. Instead, CMC's approach demonstrates that it was poorly equipped to understand or support the spectrum of its clients from the beginning, despite offering high-risk products such as spread betting where the impact of vulnerability is profound. CMC can't say "you didn't tell us" because FCA guidance says they should have asked. I wish to clarify that at the start of my trading with CMC Markets, the indicators of vulnerability I provided was my status as retired and my age (female over 50 / possible indicators life event – perimenopause or menopause), both of which are recognised under FCA guidance as factors that may contribute to vulnerability. Nevertheless, even based on my retirement, age and the factors in brackets alone, CMC should have taken additional care to assess my suitability for spread betting and provide appropriate support, particularly in light of the high-risk nature of spread betting and the execution-only account model. Disclosure of highly sensitive personal and health factors are difficult to share, and likely very difficult for a random customer service representative, often much younger, to understand. The Investigator's and CMC's omission of this point undermines the consideration of my vulnerability and the firm's corresponding obligations under FCA regulations (FG21/1 Section 2.11 – Life events as drivers of vulnerability)."

Anticipated disability

Miss S stated that “The lack of a disability disclosure process can amount to indirect discrimination under the Equality Act 2010. By requiring all applicants to follow a single, standard process, CMC applies a “provision, criterion, or practice” (PCP) that places disabled people like me at a substantial disadvantage compared to others. The absence of an accessible application pathway to disclose relevant health problems is therefore a strong indication that CMC has failed in its legal duty to make reasonable adjustments”.

Perimenopause, vulnerability, and duty of care

Miss S went on to say that “While perimenopause and menopause are not standalone protected characteristics under the Equality Act 2010, their effects can substantially affect day-to-day functioning, concentration, and decision-making. In my case symptoms meet the legal definition of a disability (Equality Act 2010, section 6), and adverse outcomes linked to menopause may constitute sex or age discrimination (sections 5 and 11). At the time of opening my account, CMC had visible indicators of my potential vulnerability. These factors could reasonably have alerted CMC to the possibility that I required enhanced support, clearer guidance and tailored communication to make an informed decision. Despite this, no additional care or assessment was provided. The failure to consider my circumstances and the potential impact of this life stage on my decision-making left me disproportionately exposed to financial risk. This again demonstrates a serious failure of duty of care and highlights the need for CMC to recognise and respond to vulnerabilities that may not be immediately visible but have a profound effect on a client’s ability to make informed financial decisions”.

Systemic gender bias and the overlooked nuances of women’s life events

Miss S stated that “as a woman over 50, retired, non-native English speaking, and experiencing life events such as perimenopause and additional disabilities, I encountered an onboarding process that was not only blind to these realities but fundamentally incapable of recognising or accommodating them. There was no safe or structured way to disclose health conditions, life stage considerations or caregiving responsibilities. The platform’s design assumed a young, male, financially active client—effectively excluding anyone who did not fit that profile. This omission is not merely poor service; it constitutes disproportionate and systemic discrimination by design. By failing to ask about or provide support for these factors, CMC placed me and other women in a position of heightened risk, exposing us to financial harm that male clients would not experience in the same way. The broader social context reinforces this inequity.

By structuring onboarding and client support around the presumed male majority, CMC ignored visible indicators of vulnerability and perpetuated a system in which women, particularly those experiencing life-stage transitions, are disproportionately exposed to harm. My case is not simply about personal loss; it reflects a systemic failure of the industry to take women’s realities seriously, highlighting the urgent need for reforms in onboarding, client support, and product suitability assessments.”

Ineffective risk disclosure and lack of genuine understanding

Miss S said that while CMC may argue that she signed the risk disclosure, this is not in itself evidence that she had a genuine understanding of the risks involved. She went on to say that the documentation is lengthy, overloaded with jargon, and presented in a way that is confusing for a non-professional trader. In practice, most clients cannot reasonably be expected to fully comprehend such complex terms until they are faced with real-life consequences. She said that while the technical requirement (obtaining a signed disclosure) was fulfilled, the

intended purpose, ensuring that she actually understood and was protected, was not achieved.

Miss S stated that CMC did not put in place any additional steps to ensure her understanding, such as a courtesy call to check whether everything was clear, or clear guidance on how and who to contact for further support. Even minimal additional measures, she says, would have helped ensure that she fully understood the implications before trading; this “tick-box” culture left her, as a vulnerable and inexperienced customer, without the safeguards that should reasonably have been in place.

Risk warnings and informed consent

Miss S said “While CMC provided standard risk warnings, these were presented in a way that did not enable me to make a genuinely informed decision. For example, the statement that “69% of clients lose money” offers no meaningful explanation of *what this loss actually means* — whether it refers to partial loss, total loss, the speed at which it can occur, or the devastating psychological effects that accompany it. After my financial loss, I even raised this question with CMC directly in order to understand how such warnings are intended to work in practice, yet I did not receive a clear explanation. In reality, these warnings function as tick-box compliance rather than effective consumer protection. Being asked “do you understand the risk?” encourages overconfidence, when in truth one can only grasp the full devastation and psychological impact of financial spread betting after experiencing losses first hand. Without thorough onboarding and meaningful assessment, these warnings fail to deter clients from trading, particularly those unfamiliar with modern platforms and mechanisms.”

In addition, Miss S explained that she knew for certain that she did not understand the risks involved and should not have been allowed to open a spread betting account with CMC. That’s because, she said, “The combination of superficial warnings, modern trading technology and my outdated prior knowledge

meant I was unable to make a properly informed decision to open and trade with CMC. Their failure to provide additional assistance, explanation, or robust assessment directly contributed to my losses. This represents not just a regulatory gap, but a serious failure of duty of care".

Correction of mischaracterisation regarding "Gambling Addiction"

Miss S said that "I wish to make clear that at no point did I state that I have, or ever have had, a gambling addiction. CMC has mischaracterised my statements in a way that shifts responsibility onto me, implying a pre-existing gambling addiction. In reality, using CMC's spread betting service induced symptoms and behaviour akin to gambling, particularly due to its psychological pressure and risk of significant financial loss. These effects only became apparent during therapy following a breakdown caused by financial trauma from losses sustained as a CMC client. It is therefore incorrect to label my experience as a personal gambling problem. The harm I suffered arose from a high-risk environment, which CMC failed to recognise or mitigate. This misrepresentation obscures the true nature of my complaint and diminishes the firm's clear failures to identify and accommodate indicators of vulnerability. I disclosed that I have been receiving therapy from a charity that mainly helps people dealing with gambling-related harm, but also supports those affected by other forms of financial trauma and help with suicide prevention. This does not constitute, nor should it be taken to imply, that I had or have any pre-existing gambling problems and knowingly participated in spread betting activities".

Retrospective KYC requirements, unfair account restriction and breach of FCA Principles/Regulations

Miss S explained that the KYC requests she received from CMC, did not contain any clear deadlines for when the information had to be provided. For example, one request simply asked her to provide documents *"at your nearest*

convenience" or *"in a timely manner".* Despite this vagueness, she says that CMC restricted her account only a week after sending the request. She went on to say that this was unfair and disproportionate, particularly as she had already acknowledged their request in writing and indicated her willingness to provide all the information requested once she had received a response to her ongoing complaint. This conduct, she says, breaches regulatory standards.

Miss S believes that there is a stark inconsistency between CMC's initial onboarding checks and the intrusive KYC request made after she raised her complaint; the original onboarding process was minimal, asking only for basic details and bank information. By contrast, she says the later request demanded highly sensitive information such as payslips, property details and proof of wealth. Miss S said that "If CMC had truly needed this information to assess my financial situation and account appropriateness, it should have been requested at the outset, before I was allowed to trade and suffer significant losses. By failing to collect this data upfront, and then demanding it only after my complaint, CMC effectively acknowledged that its earlier checks were inadequate. This inconsistency undermines their claim that they carried out proper assessments when onboarding me".

Miss S is of the view CMC's restriction of her account was unjustified, and their KYC processes were inconsistent; taken together, this represents a failure to meet FCA standards.

<u>Misrepresentation of KYC response and premature account restriction</u>

Miss S stated "I wish to highlight that CMC Markets' characterisation of my KYC response is incorrect. In their statement, CMC claimed that I had conditioned providing the requested information "ONLY if I decided to continue as a client." This is factually inaccurate. My email clearly stated that I was awaiting a reply to my previously submitted complaint and that I would provide all requested KYC information without

delay if I chose to continue as a client. It was my way of communication and acknowledgment of the KYC request email”.

Miss S said that by misrepresenting her communication and acting without a clear timeline, CMC failed to act proportionately in restricting her account and mischaracterised her intentions, which affected the Investigator’s assessment. She said it also demonstrated a lack of transparency regarding expectations for clients in responding to regulatory requests.

The Demo Account as misleading communication/CMC's marketing

Miss S explained that the distinction between a demo account and a live account is understood. However, she said that the assessment's dismissal of the demo account's role in misleading communication is a central weakness. That’s because, she says, the demo account, which did not accurately reflect real market conditions, was an integral part of CMC's onboarding and marketing process. Miss S went on to say that “It created a false and idealised impression of risk and execution, which was particularly dangerous for a vulnerable client like me with no leveraged trading experience. The demo account, as part of communication, failed this standard by masking the true complexities and dangers of real trading”.

Miss S said that given her vulnerability (age, life event, caring responsibilities, retired status, limited funds, lack of experience), she was especially susceptible to a misleading demo experience. That’s because, she said, “it provided a false sense of security and competence that was shattered upon live trading”. Miss S said that she feels the Investigator’s assessment appears to discount the impact of these marketing claims on the decision-making process.

In addition, Miss S said that CMC explicitly stated in their response that "they do not contact clients and do not monitor clients trades", directly contradicting the promise to support.

She said that the combination of a misleading demo account and CMC's supportive marketing created a false sense of security; “I was led to believe that the business model, which "supports clients every step of the way", would provide an appropriate level of oversight if difficulties were encountered”. Miss S states that this proved to be untrue.

In addition, Miss S stated that “As a vulnerable customer, the harm that resulted from this misleading communication was foreseeable. The FOS has previously noted that firms that allow vulnerable clients to engage in high-risk trading without interaction would be viewed negatively, especially when the firm is aware of the client's circumstances. The marketing claims, combined with the flawed appropriateness test and delayed KYC, should have signalled my vulnerability and prompted a different approach from CMC. My decision to open an account with CMC was based solely on their marketing, which presented the firm as supportive and attentive to clients’ needs. In reality:

- No welcome call or personal assessment occurred.
- The platform was misrepresented as equivalent to a desktop service, yet data disappeared without warning.
- Statements were issued with incorrect dates, despite formal requests for clarification.
- The investigator did not address the contradiction between CMC’s marketing promises and the reality of service, which contributed to my inability to make fully informed decisions.”

Trading history – service failure

Miss S explained that she previously raised her inability to access her trading history with the CMC and FOS, and she simultaneously raised it with the Information Commissioner’s Office (ICO), believing this could be a data protection issue. The ICO responded that trading history is not classified as

personal data for their purposes, and therefore falls outside their remit.

Miss S said that the ICO explained to her that this matter should instead be considered a service issue and directed her to pursue it with CMC. Miss S said she was of the view that CMC's response to her inability to access her trading history was wholly inadequate. She went on to say that despite her repeated requests and the ICO's guidance confirming that this is a service issue, CMC failed to provide a meaningful explanation, resolution or any assurance that her concerns were being addressed. Miss S explained that in her opinion, this represented a clear service failure and demonstrates a lack of appropriate customer care by CMC, falling squarely within the Ombudsman's remit.

Oversight/monitoring of account

Miss S stated that the Investigator's assessment appears to give undue weight to the firm's standard "execution-only" defence and signed terms and conditions. She went on to say that a firm cannot contractually exempt itself from its duty to treat customers fairly, particularly where client vulnerability is apparent.

Miss S said that her health challenges, family problems and the effects of perimenopause placed her in a vulnerable position, impairing judgment and the ability to manage the account rationally. Firms like CMC, she said, are expected to monitor for and act on signs of client distress; continuous addition of funds to a losing position in response to margin calls was a clear and foreseeable red flag that the firm ignored.

In addition, Miss S said that there was a contradiction in CMC's monitoring claim that it does not monitor clients' trades, yet given the constant margin call notifications she received, proves that they do undertake active monitoring of the account balance.

Miss S says “This monitoring was self-serving, designed to protect the firm's financial position, not the client's welfare. Notifications exploited my vulnerable state by encouraging the harmful cycle of trading. This constitutes a breach of the duty to act in the client’s best interests”. She went on to say that “CMC added fees and charges to my losing positions on a daily basis. This practice constitutes a breach of the Consumer Duty's "Price and Value" outcome, as it extracts unreasonable value from a vulnerable customer already experiencing financial harm. This further amplified the financial pressure and encouraged the harmful cycle of funding a failing account, which was a clear and foreseeable red flag that CMC ignored”.

Lack of informed consent and CMC’s failure to support vulnerable customers

Miss S says that when she signed up to CMC’s terms, she was not in a position to make a fully informed decision. Her health problems, perimenopausal symptoms and difficult life events all affected her ability to process information properly at that time. She went on to say that later, CMC themselves described her concerns as a “misunderstanding” or “misinterpretation”. She says, that shows two things: first, that her understanding really was impaired, and second, that CMC failed to notice it and take extra steps to check whether she genuinely understood the risks.

Instead of doing that, Miss S states that they relied on a tick-box, automated application process. She went on to say that there was no real human check, no attempt to clarify what the terms meant in practice and no recognition of how vulnerable customers might struggle.

Issuance of incorrect statements of cost and charges

Miss S explained that as of 16 September 2025, CMC had failed to respond to her email requesting clarification for issuance of incorrect statements. She went on to say that

CMC's unresponsiveness is a separate regulatory failure which "I am requesting to be part of my overall complaint".

Financial trauma and moral injury

Miss S said that her experience with CMC has resulted in both financial trauma and moral injury, which together have caused a profound and lasting psychological and emotional toll. She went on to say "The sudden and devastating loss of my savings and credit caused acute stress, shock and instability. This financial harm alone has had significant practical, physical and emotional consequences including leaving me in ongoing persistent debt. Beyond financial loss, I experienced a deep betrayal of trust by an institution I relied on. This betrayal has left me with lasting feelings of injustice, shame and erosion of trust in financial systems. It also conflicts with my personal values of fairness, honesty and the protection of vulnerable individuals. Taken together, the financial trauma and moral injury I have suffered extend far beyond monetary harm. They have caused a profound psychological and emotional impact, leaving enduring scars on my wellbeing and sense of safety".

Miss S then asked the Investigator to pass the case to an Ombudsman for a decision.

After considering what both parties had to say on the matter, I decided to issue a provisional decision on this case as I explained that whilst I was minded to reach the same outcome as our Investigator, I wanted to add wider reasoning which I hoped both parties would find helpful. This window of time aimed to give both parties the opportunity to provide any additional comments that they wished for me to consider before I reached a final decision.

What I said in my provisional decision:

I have summarised this complaint in far less detail than Miss S has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it

isn’t because I’ve ignored it - I haven’t. I’m satisfied that I don’t need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Miss S and CMC in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what’s fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there’s conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I’m not planning on upholding Miss S’s complaint and it’s broadly for the same reasons as our Investigator - I’ll explain why below.

The crux of Miss S’s complaint is that she believes CMC shouldn’t have allowed her to open an account given her personal and financial circumstances. The regulator, the Financial Conduct Authority (FCA), recognises that spread betting generally isn’t suitable for most retail consumers. That’s because it’s complex in nature and typically involves a high degree of risk as, more often than not, leverage is involved which as well as magnifying profits, can also magnify losses. So, there’s a very real possibility that the consumer could lose all of their investment. In light of that, the FCA expects firms that offer spread betting to undertake an appropriateness assessment with any consumer wishing to open an account, and that’s to ensure that they understand the unique risks that apply to this type of investment. Whilst I won’t repeat them in any level of detail here, the rules that the regulator expected firms to follow (at the time Miss S’s account was opened) when determining the appropriateness of a spread betting account,

are set out under COBS 10.1.2R and I've considered these when looking at her complaint.

Before completing CMC's application form, Miss S was required to undertake their Knowledge Test. This sought to understand what level of understanding, if any, she held around spread betting, so I've taken a look at her responses. Whilst there's only eight questions, they cover a range of topics including costs, margins, short and long positions and leverage. I'm of the view that an average consumer with no knowledge of spread betting would more likely than not, struggle to answer each of those questions, but Miss S was able to correctly answer five of them which does point towards a reasonable level of knowledge on the topic.

I've looked very closely at the application form that Miss S completed as part of CMC's onboarding process.

She disclosed the fact that she was 52 years old, British, resident in the UK for tax purposes and retired. She also disclosed:

- Source of funds: *property income, savings, and investments*
- Annual income*: up to £50,000 per annum,* and savings*: up to £20,000*
- Investment experience*: trackers or funds*
- Over the past three year, how many times have you traded the following: CFDs, spread bets or forex: *never*
- Do you have good knowledge and understanding of trading derivatives and the relevant risks, particularly margin trading?: *Yes, from a directly relevant professional qualification or education*

CMC's application form went on to state: "*You should only consider spread betting if the statements below are true:*

I understand that, when trading leveraged products, I risk losing all of my invested capital. It is my responsibility to monitor my positions and to manage the risks of trading by utilising the risk management tools available to me, such as stop-loss orders. I will not own or have any rights in the underlying assets.

I understand that market liquidity and volatility may impact pricing, including CMC Market's ability to generate prices or execute orders."

Miss S then ticked the box that stated*: I understand the features and risk.*

A further declaration section then followed which signposted the need to read CMC's Terms of Business, Order Execution Policy, Risk Warning Notice, Key Information Documents and Cost Disclosures.

Miss S was asked to confirm that the information she had provided was accurate and not misleading in any material respect, which she confirmed to be the case.

I have looked closely at CMC's '*Risk Warning Notice for Financial Betting December 2020'* that CMC highlighted to Miss S during the application process. That document covers in comprehensive detail the risks of what she was entering into. I'm satisfied the language used within that document is clear in nature to the extent that an average consumer with no prior knowledge of spread betting, would be under no illusion of the risks posed by entering into such an endeavour.

When I consider the application process in its entirety and the risk warnings that were shared with Miss S, I'm satisfied that CMC's approach to onboarding her was fair and reasonable and within the spirit of the FCA's COBS 10.1.2R rule. And, I'm also satisfied that Miss S was very much made aware of the risks she was entering into by opening a spread betting account. And, she provided a warranty to CMC that she had read and understood those risks by selecting the relevant

option on her application form and confirmed the information that she'd provided was true.

I should note that even before reaching the application form, Miss S was met with the following warning when she opened CMC's website - "*Spread bets and CFDs are complex instruments and come with a high risk of losing money rapidly due to leverage. 69% of retail investor accounts lose money when spread betting and/or trading CFDs with this provider. You should consider whether you understand how spread bets, CFDs, OTC options or any of our other products work and whether you can afford to take the high risk of losing your money*". I don't agree with Miss S that this messaging is unclear – I think on balance, most consumers would draw the conclusion that by entering into spread betting, there was a very high likelihood of losing some or all of the monies invested. So, whilst Miss S has said that the attractive messaging surrounding tax benefits guided her focus towards perceived gains, potentially downplaying the high-risk, leveraged nature of the product, I can't reasonably conclude that CMC have downplayed the risks involved in spread betting when considered against the wider information and warnings that I've seen, which were shared with her.

I'm not persuaded that CMC had a good reason to have refused Miss S an account, and in any event, their role wasn't to establish if spread betting was a suitable investment strategy for her.

Miss S said that during CMC's onboarding process, she had clear indicators of potential vulnerability such as her retirement status and age (she had just turned 52 at the time of the application) and her non-native English speaker status; these indicators, she says, should have triggered additional checks and human intervention as mandated under the FCA's guidance for vulnerable customers (FG21/1).

Yet, despite this, Miss S said that CMC provided no onboarding call, guidance or structured opportunity for her to disclose these

circumstances; instead, the firm relied entirely on her to volunteer highly personal and sensitive information. This passive approach, she said, which places the full burden of disclosure on the customer, is recognised by the FCA as an inadequate strategy that often fails due to customer embarrassment or reluctance. Miss S is of the view that CMC failed to adhere to the FCA's Consumer Duty. CMC have stated that while Miss S later disclosed her vulnerabilities within the FOS complaint form, at no point during their relationship with her, was this ever shared with them.

Miss S opened her spread betting account with CMC in March 2023, prior to the implementation of the FCA's Consumer Duty, which came into effect on 31 July 2023 for open products and services. At the time of the account opening, CMC was governed by the existing FCA rules as well as the FCA guidance on fair treatment of vulnerable customers (which is the FG21/1 document that Miss S has mentioned in her complaint). So, as Consumer Duty hadn't come into force in March 2023, and it's not retrospective, it doesn't apply here. FG21/1 (which was published in February 2021), required firms to have due regard to the needs of vulnerable customers but did not impose a duty to identify vulnerability in all cases – only to take appropriate action where the firm had, or ought reasonably to have had, information suggesting potential vulnerability. Importantly, the guidance acknowledges that vulnerability is often hidden or dynamic, and that firms may not always be aware of a customer's personal circumstances.

Under the FCA's FG21/1 guidance, age is recognised as one of several potential drivers of vulnerability, but it is not determinative on its own. The guidance explicitly cautions firms against making assumptions based solely on age, noting that vulnerability arises from a combination of factors including health, life events, resilience and capability. In this case, I'm of the view that CMC acted appropriately by not concluding Miss S was vulnerable merely because she was 52 years old and retired at the time of account opening. FG21/1 encourages

firms to assess individual circumstances rather than rely on demographic generalisations, and there is no presumption that a person in their early fifties, even if retired is inherently vulnerable. The FCA expectation is that vulnerability should be identified through contextual indicators and actual needs, not assumptions based on age, employment status or nationality. I should note here that Miss S has made reference in her complaint to being a 'non-native English speaker' being a vulnerability factor, but within the application form that I've seen, she stated that she was a British national and UK resident for tax purposes. I don't think it would have been appropriate or proportionate for CMC to make assumptions based solely on the customers name as doing so could risk stereotyping rather than supporting fair and inclusive treatment.

At the time Miss S opened the account, CMC's procedures included an assessment of financial appropriateness under COBS 10A to ensure that Miss S understood the risks of spread betting; collection of relevant personal and financial information to assess appropriateness and disclosure of risk warning and the provision of educational materials about leveraged trading. However, Miss S didn't make CMC aware of any personal circumstances or difficulties during the course of her trading that would have required additional support.

Miss S explained that she's of the opinion she was discriminated against. Whilst we take such concerns very seriously, it's not within the remit of this service to make a finding on whether any such discrimination has occurred – that would be a matter for the courts to decide so the focus on my decision is on whether she was treated fairly by CMC (which I believe she has been).

Once Miss S had been onboarded by CMC, their responsibility towards her didn't come to an end. So, I've looked closely at the actions of both Miss S and CMC immediately following the onboarding process and thought about the degree to which it was fair and reasonable for CMC to have allowed Miss S's

trades to have been undertaken without intervention. Whilst the regulator doesn't obligate firms to undertake an ongoing appropriateness assessment where consumers are trading complex financial instruments, they do expect firms to have an awareness of what their customers are doing.

So, they expect CMC to actively monitor how their customers interact with their products and services, ensuring that outcomes are consistently fair and aligned with customer needs. This includes maintaining robust systems and controls to identify risks, acting in consumers best interests and anticipating potential harm before it occurs. Firms must go beyond compliance and demonstrate a clear understanding of customer behaviour, vulnerabilities and expectations and use that insight to shape decisions, communications and support. The regulator places particular emphasis on firms evidencing that they are delivering good outcomes, not just avoiding poor ones.

The regulator also expects firms to be alert to consumers who may be exhibiting markers of potential vulnerability and as such, may require a heightened level of care.

However, under the FCA's COBS rule 10.2.4, a firm is entitled to rely on the information that a client provides to them. And, from what I've seen, there's no suggestion that Miss S alerted CMC prior to her complaint to them that she was suffering from a mental health issue. By her own admission, Miss S never sent CMC any emails or telephoned them about how the losses were impacting her wellbeing. But, just because a consumer is losing money, it doesn't necessarily follow that they're vulnerable. By virtue of the trading that Miss S was undertaking, its very nature is high risk and there's a high likelihood that the consumer would lose money. But, from the emails that I've seen, at no point did Miss S make CMC aware that her actions were impacting her wider health or that her finances were under strain. I do appreciate that Miss S feels that CMC could have done more to put a stop to her losses

sooner, but consumers also have a responsibility to limit their losses too.

Whilst I recognise that it's easy to spot these types of issues long after the event, I'm of the opinion that based on what CMC knew of Miss S and her circumstances, there weren't any warning signs of potential vulnerability in her trading and account management behaviour that should have alerted them to the fact that something wasn't quite right – and I'll explain why. In the financial declaration that Miss S completed at the time of her onboarding, she stated that she had an annual income of 'up to £50,000'. In addition, Miss S also stated in the application form that her savings were in the 'up to £20,000' bracket. I've studied carefully all of the transactions Miss S undertook on her spread betting account. I've also looked at the deposits and withdrawals she undertook over the course of her relationship with CMC.

In light of what Miss S had told CMC about her income and savings levels, I don't think the level and frequency of those deposits were misaligned with her stated wealth or that they should have given CMC cause for concern. I also don't think there were any red flags that CMC missed in the intervening period from opening the account to the point at which the account was suspended.

I'm broadly satisfied that CMC knew their responsibility to Miss S didn't end at the onboarding stage and understood the regulator's expectations under the PRIN rules. I say that because CMC paused Miss S's ability to trade when they asked further questions about her finances during the KYC refresh.

Miss S states that she was led into high-risk trading she was ill-equipped to manage and complains of margin alerts having a negative effect on her ability to make trading decisions - that weren't impulsive and irrational. However, from what I've seen, there's no dispute that Miss S was trading as an execution only client – this meant CMC was not responsible for advising her or managing her positions. She alone was responsible for

deciding how much money to deposit, when to open trades and on what markets, monitoring those positions, and when to close them. Had Miss S wanted direction or advice on what to do with her trades, she'd have needed to engage an adviser who specialises in this area and paid for that advice. So, despite what Miss S says about CMC not ever telephoning her to check in and see if she wanted any guidance, this was never a service that would've been available to her. And, having looked at CMC's terms and conditions (that are available on their website) and which were signposted to Miss S at the time of the opening of her account, I think it's quite clear that all investment decisions were hers alone. I say that because on page 2 of CMC's terms, it states:

"2.4 Non-advised betting.

2.4.1 All Bets and Countdowns will be entered into on a principal-to- principal, non-advised and execution only basis. This means that, unless we agree otherwise in writing, neither you nor we can act as agent, attorney, trustee or representative for any other person. Other than an Authorised Person appointed in relation to an Account in accordance with clause 3.3.1, you will not permit any person to deal with us on your behalf.

2.4.2 We do not provide investment, financial, legal, tax, regulatory or similar advice. Any information or other features (including charts) provided to you must not be treated as advice that is suitable for you or as advice that is based on a consideration of your personal circumstances. We are not responsible for any investment decisions that you make."

I can well imagine CMC's margin alerts may have alarmed Miss S when she was at her lowest point. But, I would expect CMC to have provided those alerts as a very feature of the account that they provided. And had they not done so, arguably, the consumer would be placed at a serious risk of having their positions closed if they're unaware of their margin maintenance obligations.

It doesn’t mean CMC have done something wrong by sending those alerts. And, CMC sets this out within their terms of service (that I’ve already mentioned above). In her response to our Investigator’s view, Miss S said that there was a contradiction in CMC's monitoring claim that it does not monitor client’s trades. Given the constant margin call notifications she received, Miss S stated that proves they do undertake active monitoring of the account balance, however I don’t agree. I think there’s a clear distinction between the automated issuance of a margin call and an individual at CMC proactively monitoring the trades that a consumer is undertaking. Importantly, CMC isn’t authorised to provide financial advice on spread betting so any interference on their part of a customer’s trading strategy would likely be viewed as problematic by the regulator.

In her complaint submission, Miss S explained that having initially used CMC’s demo account to learn about trading, it later transpired that the demo account was incomparable to regular trading on their platform and as such, gave her a false sense of security. The regulator doesn’t place any onus on spread betting firms to offer a demo account; that’s a commercial decision for them. And, having looked online at CMC’s offering, I’m satisfied that that they make it quite clear that it won’t mirror their live platform:

“The information, content and functionality including pricing and order execution of the demo platform may differ from the live CMC trading platform. CMC does not warrant that any information, content or functionality of the demo platform will display, operate or otherwise perform in the same way as the live CMC trading platform.”

And, by opening a demo account with CMC, Miss S agreed to this condition, so I can’t conclude that CMC have done something wrong just because there’s differences between their demo and live platforms.

Miss S has explained that she's of the view when she complained to CMC, they unfairly restricted her account. She went on to say that she felt this to be retaliatory. CMC claimed the account had been restricted because of non-receipt of requested information and referring to their terms of service to support their stance. Miss S explained that as part of that process, CMC asked for more financial information from her than they did when she originally opened the account.

I think it's important to start by explaining the background to why CMC asked Miss S to provide them with additional information about her personal finances, well after the account had been opened. All regulated financial services firms, including CMC, are obligated to ensure that the records they hold about their customers' background and circumstances are up to date. They're required to do this at the start of the relationship and on an ongoing basis and it's often referred to as 'know your customer', or 'KYC'. Those checks are designed for a number of reasons, not least to help prevent money laundering and fraud. Without an updated customer record, CMC isn't able to maintain compliance with their legal and regulatory requirements. And, any failure on CMC's part to ensure their KYC records are up to date could result in serious consequences for them such as financial penalties or in a worst-case scenario, loss of licence.

Importantly, the rules that provide the foundation for KYC checks are updated regularly so it doesn't necessarily follow that just because a firm didn't ask for a particular piece of information when the account was originally opened (or that they only asked for very basic information on the issue), that they then can't ask the consumer to provide wider clarification on the issue later on. So, whilst Miss S says that her circumstances since opening the account hadn't changed, it doesn't matter. The rules covering fighting financial crime are broad and updated regularly and CMC is well within their rights to request reasonable information from their consumers as and when either those external rules or own policies alter or as part

of their ongoing cyclical checking to ensure the accounts being managed on their platform fall within their risk appetite.

Whilst I appreciate that Miss S may think the nature of CMC's information requests were intrusive, there's an expectation on firms' Money Laundering Reporting Officers to obtain conclusive evidence that account funding has come from legitimate means - that requires them to secure a detailed evidence trail rather than relying solely on what the consumer is telling them. And, from what I've seen of the documents requested of Miss S, I can't conclude that they were unreasonable or excessive in nature.

To be clear, Miss S is well within her rights to refuse to provide the information that CMC asked of her, but she has to accept that in doing so, CMC are within their rights to pause, suspend or end their relationship with her as a consequence. So despite what Miss S says about CMC pausing her ability to transact being against regulatory principles, I don't conclude that CMC did anything wrong in this regard.

Miss S has kindly shared the outcome of the complaint she raised with the Information Commissioner's Office about CMC's failure to provide her with details or her transactions/ statements. Miss S said that CMC had failed to respond to her email requesting clarification for issuance of incorrect statements. From what I've seen, CMC have stated that Miss S's previous statements haven't disappeared and were always available. If Miss S still requires details of prior transactions, I don't think that CMC would consider that an unreasonable request and I suspect that they'll more likely than not be happy to provide prior copies of any statements that Miss S needs.

Within her complaint, Miss S has explained that often, she encountered problems signing into CMC's platform and it resulted on occasion her having to change her passwords to enable her to trade. She's also mentioned the CrowdStrike issue from July 2024 (which is a cyber security software company who released a piece of software causing millions of

systems worldwide to crash – including CMC's). I can imagine Miss S's frustration at not being able to access CMC's trading platform on occasion, but there will always be times when IT fails and it doesn't work as intended. Often, that's outside of the control of the firm (as was the case with the CrowdStrike issue). However, whilst CMC will always endeavour to ensure that their systems are available for the majority of time possible, they can't offer a 100% guarantee. That's set out as a warning in their terms but in any event, it's in CMC's own commercial interest to ensure their platforms are available and online because whenever they're not, there's a financial impact to them through lost fees.

CMC added fees and charges to Miss S's positions on a daily basis; she says that this practice constitutes a breach of the Consumer Duty's "Price and Value" outcome, as it extracts unreasonable value from a vulnerable customer already experiencing financial harm, however I don't agree. Under the FCA's Consumer Duty, firms are required to ensure that the price a customer pays for a product or service represents fair value. I've considered those costs, and I don't think the business has acted unfairly.

CMC provided Miss S with a copy of their terms and conditions at the start of the relationship which explains that there is a cost associated with betting. Those terms and conditions (in section 5.8) also signpost their website and explain holding costs will be applied for certain bets. However, I'm satisfied that Miss S was already well aware of CMC's charges given they'd applied a holding charge from as early as her first trades in March 2023. Whilst I fully appreciate the financial challenges that Miss S has incurred, it doesn't necessarily follow that just because a consumer's bets are losing, that CMC is no longer entitled to levy its fees.

Summary

By the very nature of the activity they're undertaking, spread bet traders typically tend to trade frequently, and they can also

suffer large losses; Miss S suffered large losses and from what I've seen, she traded regularly. But that doesn't necessarily always indicate a consumer is vulnerable. CMC can only act on the information provided to them, and from what I've seen, they acted in good faith based on what Miss S shared with them when she opened her account and during the duration of her relationship with them.

But, as I've already explained, spread betting is a high-risk enterprise, and most retail consumers typically lose money when investing. Whilst I'm content that CMC made clear to Miss S that spread betting is high risk, I'm satisfied that based on her trading frequency and experience, she already understood this. And, having looked closely at the various email exchanges that have subsequently been provided to me, I'm not persuaded that on reflection, there were indicators which should have alerted CMC to Miss S being a vulnerable customer that would have allowed them to put a stop to her trading activities sooner. I don't think it was unreasonable for the business to rely on the information that Miss S had provided to them about the level of savings, earnings and experience that she held.

So, I think on balance, based on the information that CMC knew of Miss S, I can't conclude that they treated her unfairly. I'm not persuaded that in the specific circumstances of Miss S's case there were any particular reasons that ought to have prompted CMC to unilaterally stop her from doing something she clearly wanted to do – and for which the questionnaire she completed suggested that she had knowledge of and ample warning of the risks. I'm satisfied that the losses sustained were therefore trading losses incurred by Miss S's trading decisions and not caused by something CMC did or didn't do and as such, I'm not upholding Miss S's complaint.

Responses to my provisional decision of 21 November 2025:

After considering what I had to say, CMC responded explaining that they accepted the provisional decision.

On 15 December 2025, Miss S responded and stated that she disagreed with the outcome. In addition, she also said that she believed the complaint assessment was procedurally flawed because it omitted and failed to meaningfully address material evidence, which was previously submitted. She also stated:

“Failure to Consider Disability and Breach of Fair Handling: My submission included explicit details regarding my disability (including a female-specific condition) and vulnerability, and how it was relevant to my interactions with the financial firm and my capacity to manage the situation effectively. I also explained how these conditions impact my ability to process complex information and communicate efficiently.

The Ombudsman makes no mention of my disability, nor does the decision address how this characteristic was factored into the statutory "fair and reasonable" assessment of my circumstances. By ignoring this, the FOS failed to apply the necessary "vulnerability lens" and essentially applied an "average customer" standard. This procedural failure fundamentally undermines the fairness of the outcome. The FOS has a duty to make reasonable adjustments for disabled persons using their service, and failure to acknowledge or implement these is a serious service failure. The Ombudsman's tone and comments regarding my nationality and language skills gave me the distinct impression my overall credibility was being questioned. This is particularly distressing as referencing my health and disability was very difficult and embarrassing for me. I included this sensitive personal information in good faith, believing the FOS would handle it with care and use a "vulnerability lens" as per their guidance. The dismissive tone I perceive from the omission and specific comments has caused significant distress. To confirm my condition, I am attaching my latest post-visit copy of a letter (redacted for privacy), and I am prepared to provide any further documentation required. The failure to acknowledge or appropriately handle this sensitive, material evidence is a significant administrative and service failure.

Failure to Address Evidence of Material Discrepancies and Potential Maladministration: My evidence submission included specific documentation highlighting significant discrepancies in the data held by the financial firm and suggested potentially inaccurate statements were relied upon in their defence. The Ombudsman failed to address this crucial evidence, specifically the discrepancies between the nationality and experience data logged on the firm's system and the actual facts I provided for verification during the account opening process. This omitted evidence was central to demonstrating misrepresentation and misconduct by the firm. By omitting this material evidence, the FOS prevented a fair assessment of liability on the balance of probabilities. I am requesting an investigation into whether the FOS accepted incomplete documentation and failed in its duty to further investigate these obvious discrepancies, which constitutes a significant service failure in the evidence review process. The specific discrepancies that were overlooked are:

Incorrectly logged nationality: My nationality was logged internally by the CMC as "British," despite the firm being provided with my Polish passport for ID verification, confirming my status as a Polish national at the time of the account application.

Incorrectly logged level of experience: My experience was logged as "relevant," where in fact I do not have, nor ever had, such experience and had explicitly stated "none of the above" on the application form.

Both discrepancies were logged on CMC's internal system without my knowledge. The omission of this factual evidence resulted in the Ombudsman's problematic comment on page 28 of the provisional decision: *"The FCA expectation is that vulnerability should be identified through contextual indicators and actual needs, not assumptions based on age, employment status or nationality. I should note here that Miss S has made reference in her complaint to being a 'non-native English speaker' being a vulnerability factor, but within the application*

form that I've seen, she stated that she was a British national and UK resident for tax purposes. I don't think it would have been appropriate or proportionate for CMC to make assumptions based solely on the customers name as doing so could risk stereotyping rather than supporting fair and inclusive treatment. "

This comment demonstrates several issues with the FOS's assessment standards and fairness: It unfairly challenges my credibility: By contrasting my claim of being a non-native English speaker with my British nationality, the Ombudsman implicitly questions my honesty based on a flawed assumption. It relies on a flawed, biased assumption: The Ombudsman incorrectly assumes that "British national" inherently means "native English speaker". Nationality and linguistic proficiency are unrelated facts.

This misunderstanding relies on a stereotype rather than an objective assessment of the evidence provided (i.e., the Polish passport). Indication of bias and lack of due diligence: The only relevant information is whether I am a non-native English speaker and whether that makes me vulnerable in the context of my complaint. The firm *had that* information through my ID verification. The Ombudsman's failure to verify basic client data (my actual nationality at account opening) and their subsequent reliance on the firm's incorrect records led to a biased assessment of my credibility and vulnerability. The inclusion of such an irrelevant, potentially biased comment indicates a failure to maintain professional standards and adhere to principles of good administration and fairness. The Ombudsman is subtly questioning my honesty based on incomplete and factually incorrect evidence provided by the firm.

Please note that the Equality Advisory and Support Service (EASS) has been consulted, and I was advised to make a formal complaint relating to the issue of potential discrimination and harassment as described above. Additionally, the

Ombudsman failed to reference or investigate a statement generated and issued for a full financial year where I was not a client (live account) nor had any trading activity. A second statement was issued for a tax year with an overlapping period containing the same charges and fees. The failure to address these fundamental discrepancies represents a significant service failure. The case has been reported to ICO but still not received any outcome.

Failure to Adequately Apply Regulatory Rules (COBS 10.1.2R) and Address the Firm’s 'Anticipatory Duty'

The Ombudsman references their consideration of the FCA’s rules under COBS 10.1.2R when determining the appropriateness of the spread betting account opening. A crucial part of applying the "fair and reasonable" standard in line with regulation and the FCA's guidance (specifically the 'FG21/1 Guidance for firms on the fair treatment of vulnerable customers') is considering all relevant client circumstances, including health problems, disability, and vulnerabilities.

My evidence concerning my disability (a protected characteristic under the Equality Act 2010) was highly relevant to the firm’s appropriateness assessment and my capacity to understand the risks as required by COBS 10.1.2R. The firm had an 'anticipatory duty' to consider my needs and make reasonable adjustments based on the information provided (retired, none British, none native English speaker) during the application and ID verification stages—information which meant they 'ought to have known' about my vulnerability and non-native English speaking status.

The FOS's decision fails to document how these specific circumstances were weighed. The decision is procedurally flawed as it appears that the Ombudsman failed to properly apply the holistic regulatory requirements and broader legal duties concerning fair treatment of vulnerable customers when assessing the firm's compliance. The lack of reasoning regarding this material evidence prevents proper scrutiny of

whether the decision was genuinely fair or reasonable in the full circumstances. I believe The Ombudsman’s omission of this critical aspect of the firm’s regulatory duty is a significant service failure.

The ombudsman concluded the firm acted in 'good faith' despite evidence of factual errors (nationality) and internal contradictions (experience) in their records and request for retrospective KYC information about my wealth and income (incomplete documentation at the onboarding) The decision to conclude that losses were purely my trading decisions, while ignoring the firm's breaches of duty of care, compliance with FCA regulations (accurate record keeping) and data handling, demonstrates a lack of fair assessment. The pre-judgment of the outcome before my formal response raises significant concerns about the integrity of the FOS process in this instance. The ombudsman's acknowledgement of CMC's failure to respond to my requests for clarification, without treating this as a serious failure of service or conduct, demonstrates a bias in the assessment. This downplays the firm's poor conduct and the distress it caused me.

Additionally, I wish to bring to the attention of FOS that several statutory bodies are now investigating the material evidence I have provided. The Financial Conduct Authority (FCA) has formally logged the details of my complaint against CMC Markets, including the information regarding the FOS’s handling of this case. Furthermore, Action Fraud has escalated my report to their "Alternative disposal" team for further action. Notably, Action Fraud has informed me that the unauthorized alteration of personal data—specifically my nationality—could fall within the scope of identity theft. The Information Commissioner’s Office (ICO) has also been notified of this new evidence concerning data inaccuracies and potential misconduct that came to light during this process. In light of these systemic failures by CMC Spreadbet Plc I contend there is a clear and compelling case that the firm mis-sold the spread betting account to me by failing in their regulatory duties and

ignoring my actual circumstances. These external escalations underscore the severity of the discrepancies that the FOS has, to date, failed to address in the "fair and reasonable" assessment of my case. I therefore respectfully request that the provisional decision be withdrawn. A fair and reasonable assessment is impossible when key facts about my circumstances are ignored, misleading documentation is accepted, and my credibility is unfairly challenged. I insist on a full and transparent re-examination of my complaint, and for the FOS to address the serious procedural failings that have occurred."

Response to Miss S's comments

On 22 December 2025, I responded to Miss S's comments. As well as thanking her for taking the time to provide such a detailed and thoughtful response to my provisional decision of 21 November 2025, I also explained that I very much appreciated the effort involved and the sensitivity required to share such personal health information. I also said:

"I understand that you've raised several concerns about the provisional decision, and I want to make sure each of those is properly addressed. The reason I issued a provisional decision, rather than immediately concluding not to uphold your complaint after our Investigator's initial view, was to give you the opportunity to share your perspective in full. This step is an important part of ensuring that all your concerns are surfaced and considered carefully, and I believe the provisional decision has helped us achieve that.

As I explained in my provisional decision, our service is designed to provide a quick and informal way of resolving disputes. My role is to decide what's fair and reasonable in the circumstances of this complaint, taking into account relevant law, regulation, and industry practice. While I've carefully reviewed all the submissions and evidence before reaching this decision, the rules do not require me to respond to every individual point raised. That said, I want to reassure you that

each concern has been considered as part of my overall assessment.

Vulnerability and Health Disclosures

You explained that you are experiencing significant health challenges, including conditions that may meet the definition of disability under the Equality Act 2010. You also highlighted life events such as retirement and perimenopause, which you believe should have triggered additional care under FCA guidance (FG21/1). I acknowledge these disclosures and the distress caused.

However, FG21/1 guidance does not require firms to assume vulnerability based solely on demographic indicators such as age or retired status. It expects firms to act where they have, or ought reasonably to have, information suggesting vulnerability. In this case, I saw no evidence to suggest that you disclosed your health conditions or related challenges to CMC during onboarding or while trading. While I appreciate that disclosure can be difficult, the evidence does not show that CMC had actual or constructive knowledge of these circumstances at the relevant time. This makes it difficult for me to conclude that CMC breached their obligations in this regard.

Nationality and Language

Thank you for highlighting your concerns about nationality and language. I'm truly sorry if any of my earlier wording caused distress, that was never my intention. I appreciate you sharing how this may have affected your experience.

I understand the importance of language proficiency and how it can influence a customer's understanding. While firms must avoid making assumptions based on name or nationality alone, I fully acknowledge your point that being a non-native English speaker can present challenges. Based on the evidence available, I haven't seen anything to suggest that CMC was aware of this during onboarding, as the application form indicated you were a British national and a UK tax resident. I

appreciate that you may have shared your Polish passport as part of the verification process, which could have indicated dual nationality. However, holding a Polish passport does not necessarily mean a customer is not fluent in English, and I have not seen evidence that CMC had reason to believe language was a barrier. That said, I regret any unintended impact my wording may have had and appreciate the opportunity to clarify this.

Material Evidence and Record Discrepancies

You've explained that you have highlighted discrepancies in CMC's internal records regarding nationality and experience. I have considered these points. While these discrepancies are concerning, they do not materially alter my assessment of whether CMC acted fairly and reasonably when allowing you to open an account. The appropriateness assessment was based on the information provided in the application form and the knowledge test responses, which indicated a level of understanding sufficient under COBS 10.1.2R. I do not find evidence that these discrepancies caused or contributed to the losses sustained.

Regulatory Duties and Anticipatory Obligations

You've explained that CMC had an anticipatory duty to make reasonable adjustments under the Equality Act and FCA guidance. While firms must treat customers fairly and consider vulnerability, the duty to make adjustments arises where the firm knows, or should reasonably know, about a customer's needs. In this case, I did not seen any evidence that CMC had such knowledge during either the onboarding process or the trading that then followed."

Finally, I acknowledged to Miss S that I very much recognised the significant financial and emotional impact this matter has had on her, and that I didn't underestimate the distress caused. I also explained that I remained committed and open to considering any further evidence that she was able to provide.

However, based on the evidence and regulatory framework, I explained that I still remained of the view that CMC acted within their obligations when onboarding her and during the trading relationship.

In response to my reply, Miss S stated that she wished to raise a service complaint about the outcome of the provisional decision. This complaint was considered and then addressed by a manager who wrote to Miss S under separate cover.

Further response to the provisional decision

On 21 January 2026, Miss S provided a further response to the provisional decision. She stated:

"1. Introduction

I respectfully submit additional evidence and clarification for reconsideration under the Financial Services and Markets Act 2000 (Schedule 17) and the Financial Conduct Authority ("FCA") Consumer Duty (found in *PRIN 2A of the FCA Handbook*). It concerns the conduct of CMC Spreadbet Plc, an execution-only spread-betting firm regulated by the FCA, whose failures in onboarding, Know-Your-Customer (KYC) procedures, record-keeping, and vulnerability identification breached both the FCA Handbook and data-protection law. These breaches caused me, a disabled and retired non-native English speaker, to suffer substantial trading losses.

Thank you for your provisional decision and for your email of 22 December 2025

I confirm that I do not agree with the provisional findings and ask that the following points are noted on the case file and taken into account prior to the issue of any final decision. CMC Spreadbet Plc provided its services to me on an execution-only basis. While this means suitability did not apply, the firm was nevertheless required to carry out an appropriateness assessment based on accurate and reliable information regarding my knowledge and experience and personal profile. I

remain concerned that the firm relied on personal data about me that was inaccurate, incomplete, or assumed, including information recorded at the point of account opening relating to nationality and trading experience. I dispute the accuracy of this data and have raised specific concerns about how it was recorded. Despite this, CMC relied on this disputed information to generate official account records and statements, and to justify assumptions about my circumstances. In my view, this creates a circular reasoning issue, whereby the firm's own records — which I contest as inaccurate — are treated as reliable evidence to support conclusions adverse to me.

I am also concerned that inaccuracies in CMC Spreadbet Plc's records meant that relevant aspects of my vulnerability were not identified or taken into account. English is not my first language, and I provided official identification documents at the point of account opening which accurately reflected my nationality. However, the firm's records nevertheless recorded incorrect nationality information and proceeded on the basis of unsupported assumptions about my nationality, despite this being inconsistent with the identification provided. In my view, reliance on such assumptions contributed to a failure to recognise language-related vulnerability and to provide appropriate clarity or safeguards in communications.

The FCA recognises language barriers as a relevant vulnerability factor, and I do not consider it fair or reasonable for assumptions about nationality or citizenship to override the information I provided or to negate the need for clear and accessible communication.

Reliance on inaccurate or unverified personal data undermined the integrity of any appropriateness assessment. As a result, I was permitted to trade without an effective assessment of whether the risks were appropriate given my actual level of knowledge, experience, and understanding. I consider that this materially contributed to my exposure to risk and to the losses I subsequently incurred.

While I appreciate that it is for the Ombudsman to determine the weight placed on different pieces of evidence, I respectfully maintain that unsupported assumptions and disputed personal data should not be relied upon in reaching conclusions against me, particularly where their accuracy has been specifically challenged and where this affected both appropriateness and the recognition of vulnerability.

Due to recent findings of serious irregularities within the data and information held by CMC Spreadbet Plc regarding my account, I will be formally requesting a full audit of my trading history. This audit is necessary to verify whether all charges, costs, and fees were applied correctly and lawfully. As the complexity of this data prevents me from auditing it personally, I will be appointing a professional third party to conduct this review. Any potential discrepancies or incorrect findings uncovered during this process may result in further formal complaint. I am sharing this information with the Ombudsman now to ensure situation is fully apprised and noted on my current file for transparency.

I ask that these points are considered before a final decision is issued

2. Chronology

- March 2023 – I opened an account with CMC. My Polish passport was submitted as identification, yet the firm recorded my nationality as “British”, without my knowledge or permission
- I disclosed that I had no trading experience; however, the firm recorded “relevant financial education.” without my knowledge or permission
- As retired person on fixed income I was not asked to supply proof of income or wealth to support appropriateness of trading account; the only financial question was to tick an income bracket (“£20,000–£49,999”) .

- No facility or question existed to disclose disability. I am hearing-impaired and medically retired
- June 2023 – The firm issued two cost-and-charges statements: one covering *1 Jan 2022 – 31 Dec 2022* and another covering *6 Apr 2022 – 5 Apr 2023*— periods before my account existed.
- August 2023 – The firm requested only screenshots of bank cards as “KYC.” No wealth or income documentation was requested.
- October 2023 – July 2024 – I incurred five-figure losses.
- August 2024 – A second KYC was requested demanding full financial details only after I filed a complaint. I refused because the request appeared retaliatory and retrospective.
- 2024 Complaint – In my complaint, I requested contract rescission due to regulatory breaches, non-responsiveness, service failures and more.
- 2025 Complaint to FOS
- 2025 SAR request
- 2026 Request for Rectification of Personal Data under UK GDPR Article 16 submitted to CMC Spreadbet Plc, expected by 18/02/2026 in line with ICO expectations (pending response)

3. Grounds for Reconsideration

(a) Consumer Duty Applicability

Losses arose after 31 July 2023; therefore, the Duty applies. Under *PRIN 2A.2.8R–2A.2.10R*, a firm must:

1. Act in good faith toward retail customers.
2. Avoid causing foreseeable harm.

3. Support customers in pursuing financial objectives.

The firm's onboarding failures and inaccurate records made financial harm foreseeable for a retired, disabled, non-native English speaker trading leveraged products.

(b) Failure to Identify and Support Vulnerability

The firm breached the FCA's *FG21/1* (Guidance on the Fair Treatment of Vulnerable Customers). Disability, retirement, and language barriers are explicit vulnerability indicators (FG21/1 paras 2.21, 4.10–4.15). The absence of a disclosure channel and lack of proactive assessment and verification contradict FCA expectations under *FCA PRIN 2A.2.9R.*

(c) Inaccurate Records and Unauthorised Data Processing

Under *SYSC 9.1.1R*, a firm must maintain accurate records. Recording my nationality and trading experience incorrectly, and creating back-dated cost statements, breached that duty.

These failings also contravened the *UK GDPR Art. 5(1)(d)* and *Data Protection Act 2018 Part 2* duties to process "accurate and up-to-date" personal data, as well as *UK GDPR Art. 16* (right to rectification).

(d) Failure of KYC and Appropriateness Assessment

Under *COBS 9.2.2R* and *COBS 2.1.1R*, firms must obtain sufficient client information and act in clients' best interests—even in execution-only relationships for complex leveraged products. Late or incomplete KYC negates these obligations, and post-complaint remediation (August 2024) suggests prior non-compliance.

(e) Incorrect Cost-and-Charges Statements

Generating and Issuing cost reports for pre-account periods violates *COBS 16A.4.3R* and demonstrates a failure of systems and controls and fair treatment.

(f) Procedural Unfairness in Ombudsman's Decision

The Ombudsman based his provisional view on a mis-filed application and concluded that the Consumer Duty did not apply. Both conclusions are factually and legally incorrect. The FOS has a statutory duty
under *Financial Services and Markets Act 2000 Schedule 17 §1 3* to decide complaints "fairly and reasonably," having regard to relevant FCA principles and regulations. Continued reliance on incorrect nationality and experience information after July 2023 could amount to an ongoing regulatory breach by CMC Spreadbet Plc under SYSC 9.1.1R (requirement to maintain accurate records). My complaint should now be examined through the lens of the Consumer Duty outcome tests (products and services, consumer understanding, customer support) given provided evidence.

4. Causation and Harm

- The firm's failures in collecting wealth/income data and recognising vulnerability deprived me of the ability to make informed decisions and led to sustained, avoidable losses.
- Those losses occurred after the Consumer Duty came into force, meaning the firm had a live legal responsibility to prevent foreseeable harm.
- Emotional,psychological , and financial distress and loss of confidence in financial systems have resulted from the firm's non-responsiveness and systemic data errors.

5. Remedies Requested

- Full reconsideration of my complaint under the Consumer Duty applying from 31 July 2023.
- Compensation for consequential trading losses (44.369£), emotional and psychological harm arising from unfair treatment and the firm's regulatory and data-protection breaches pursuant to *FSMA 2000* Sched. 17 §13 .

- Written acknowledgment of data-processing inaccuracies under *UK GDPR Art. 16* and correction of all personal information.
- Referral to the FCA Supervision Division for investigation of systematic compliance failures.

6. Supporting Evidence Attached

- Copy of onboarding application showing inaccurate entries (submitted by CMC)
- Copy of Polish passport establishing nationality (submitted by CMC)
- Cost and charges statements dated June 2023 covering 2022 AND 2022/2023 periods (original email containing Statements submitted via forwarded email to FOS)
- Medical documentation confirming disability (health summary submitted in correspondence on the 15/12/2025)
- Correspondence with the CMC Spreadbet Plc (August 2023 – August 2024) showing deficient KYC requests (submitted in complaint correspondence)
- Correspondence with the firm requesting clarification for issuance and generation of incorrect statements of cost and charges on 14/03/2025, unanswered (submitted via forwarded email to FOS)
- Correspondence with the firm requesting rectification of personal data under UK GDPR Article 16 on 18/01/2026 (submitted via forwarded email to FOS)

Issue 1: “Good Faith” Is Not a Defence Under FCA Rules

The provisional decision places weight on the firm having acted in “good faith” at onboarding. FCA regulation imposes objective standards of compliance, not a subjective test of intent.

Under COBS 2.1.1R, a firm must act honestly, fairly and professionally in accordance with the best interests of its client. This requires decisions to be based on accurate and reliable information. Reliance on assumptions or incorrect records—regardless of intent—does not meet this standard.

Further, firms must maintain effective systems and controls (SYSC 3.1.1R) and orderly, accurate records sufficient to demonstrate compliance (SYSC 9.1.1R). FCA rules do not recognise “good faith” as a defence to failures in record-keeping, onboarding, or appropriateness.

Accordingly, it is neither fair nor reasonable to treat good faith as mitigating defective regulatory processes.

Issue 2: Failure of the Appropriateness Assessment (COBS 10.2)

CMC Spreadbet Plc provided its services on an execution-only basis. Under COBS 10.2, the firm was required to carry out an appropriateness assessment to determine if I had the necessary experience and knowledge to understand the risks of the products offered. I maintain that this assessment was fundamentally flawed. A firm is entitled to rely on client information only if it is not aware that the information is "manifestly out of date, inaccurate or incomplete" (COBS 10.2.4R). Because the firm relied on data regarding my nationality and trading experience that was inaccurate or assumed, the assessment itself is regulatory void. An assessment based on fundamentally incorrect data cannot "reasonably" conclude that a high-risk product is appropriate for an retail client.

Issue 3: Execution-Only Does Not Remove Appropriateness or Data Accuracy Duties

While the service was execution-only, spread betting is a complex product. Under COBS 10A.2.1R, firms providing execution-only services in complex instruments must assess whether the client has the knowledge and experience to

understand the risks. That assessment is only as reliable as the data on which it is based. Where nationality, experience, or financial information is inaccurate and missing, the appropriateness assessment is defective. Execution-only removes any duty to advise, but it does not remove duties relating to:

- appropriateness (COBS 10A.2.1R),
- fairness and professionalism (COBS 2.1.1R), and
- accurate record-keeping (SYSC 9.1.1R).

Voluntary trading does not break causation where the firm should not have enabled trading on the basis of defective onboarding data.

Issue 4: Inaccurate FCA-Mandated Records Reduce the Weight of the Firm's Evidence

FCA rules place responsibility for record accuracy squarely on the firm. Records that misstate core facts cannot reliably evidence compliance.

- SYSC 9.1.1R requires records sufficient to enable regulatory monitoring.
- SYSC 3.1.1R requires systems designed to ensure compliance.

Where FCA-mandated records are inaccurate, any evidence derived from them—such as assertions about appropriateness, warnings, or informed consent—should be given reduced weight. Any uncertainty created by those inaccuracies should be resolved against the firm, which controlled the systems and data.

Issue 5: Application of the FCA Consumer Duty After 31 July 2023

The provisional decision states that no enhanced duty applied because the account was opened before the Consumer Duty came into force. This conflates account opening with ongoing service.

Under PRIN 2A.1.4R, the Consumer Duty applies to open products and services from 31 July 2023, regardless of when they were sold or opened.

From that date, the firm was required to:

- act to deliver good outcomes (PRIN 2A.2.1R);
- avoid causing foreseeable harm (PRIN 2A.2.3R);
- act in good faith (PRIN 2A.2.5R);
- enable and support customers to pursue their financial objectives (PRIN 2A.2.6R).

The firm's post-31 July 2023 conduct—including continued facilitation of trading and a limited KYC request focused only on bank card screenshots—constituted ongoing decisions affecting customer outcomes. Continuing to rely on inaccurate onboarding data after the Duty came into force is incompatible with delivering good outcomes or avoiding foreseeable harm.

For losses incurred after 31 July 2023, the firm bears the burden of demonstrating compliance with the Consumer Duty. Inaccurate records prevent it from doing so.

Issue 6: FOS's Statutory Fair and Reasonable Test

Under Financial Services and Markets Act 2000 § 228, the Ombudsman must determine complaints by reference to what is fair and reasonable in all the circumstances. Given:

- defective onboarding and appropriateness;
- inaccurate FCA-mandated records;

- continued reliance on those inaccuracies;
- and post-31 July 2023 losses subject to the Consumer Duty;

it would not be fair or reasonable to give decisive weight to the firm’s evidence or to treat the opening date of the account as excluding enhanced post-Duty obligations.

Issue 7: Probability of Firm Awareness

It is extremely probable the firm knew of my Polish nationality during my complaint to the firm and the FOS process because:

- Mandatory Disclosure: Firms are required under FCA rules to co-operate with the Ombudsman and provide all relevant documentation.
- Verification of Evidence: Since I verified that the Polish passport *was* provided, it existed in the firm's internal files. Failing to present it to the Ombudsman or allowing the Ombudsman to continue with an "assumption" could be viewed as a breach of the duty of candour.
- KYC Triggers: The KYC requests in 2023 and 2024 were formal opportunities for the firm to reconcile their data. If they saw the passport and did not update their records, they were in breach of the UK GDPR Accuracy Principle.

Issue 8: Nationality as "Special Category" Personal Data

Nationality falls under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA).

- Special Category Data: Under Article 9 of the UK GDPR, nationality is often classed as "special category" data because it can reveal an individual’s racial or ethnic origin.
- The Accuracy Principle: Article 5(1)(d) of the UK GDPR requires that personal data be accurate and kept up to date.

If a firm knowingly holds "British" as my nationality despite being provided with a Polish passport, they are in direct breach of this principle.

- Right to Rectification: Under Article 16, I have a legal right to have inaccurate personal data rectified without undue delay.

Issue 9: Incorrectly recorded "Knowledge and experience" and Nationality within application form

During application process I was asked: Do you have good knowledge and understanding of trading derivatives and the relevant risks, particularly margin trading? I was unaware of this information being recorded incorrectly by CMC and it only came to light during complaint process.

(Tick all that apply)

OPTION 1 Yes, from a directly relevant role in financial services
OPTION 2 Yes, from a directly relevant professional qualification or education
OPTION 3 None of the above

I ticked " NONE OF THE ABOVE"

I do not hold any of such qualifications nor have I ever worked within financial services.

If the firm’s system was poorly designed, it may have defaulted to the second (2) option or failed to register the final click on the third (3) option. Other possible scenario is If "Relevant education" was option 2 and "None of the above" was option 3, a misclick, a "fat-finger" error, or a system "offset" error (where the system records the item above or below the one selected) could easily have occurred. In financial regulation, this is often called a "user interface (UI) or design failure."

- Systemic Error: If the firm's database incorrectly mapped the response fields (e.g., it thought "Option 2" was the bottom of

the list), it would record "Relevant professional qualification or education" even if I clicked the third box.

- Evidence of Pattern: Since the firm *also* incorrectly recorded my nationality, this strengthens my argument that CMC's onboarding system was fundamentally flawed and prone to recording incorrect data.

Possibility of another system data entry error or manual data entry error which remained unverified by CMC relates to my Nationality. Under UK AML / KYC rules, nationality is a verified attribute, not an inferred one.

What the law actually requires: Under Money Laundering Regulations 2017, FCA SYSC, JMLSG Guidance (binding in practice) a firm must: Obtain nationality, Verify it using reliable, independent documents, Record it accurately, Keep it up to date Assumptions (DUAL CITIZENTSHIP) are not verification. CMC did not see a British passport or a certificate of naturalisation then CMC had no verified evidence that I was British (which I am not), CMC did not verify, filled in a regulatory field without evidence. This is compliance failure

Under COBS 10.2.1R, the firm was required to accurately assess my experience. As they recorded "Relevant qualification and education" in error, CMC failed to issue the mandatory risk warning required for inexperienced traders. CMC Spreadbet Plc provided services on an execution-only basis. Under COBS 10.2.1R, the firm was required to assess whether I had the necessary experience and knowledge to understand the risks of the products offered. Crucially, COBS 10.2.4R states that while a firm is entitled to rely on client information, it cannot do so if it is aware that the information is "manifestly out of date, inaccurate or incomplete". Because the firm relied on data regarding my nationality and trading experience within the same application form, that was demonstrably inaccurate and contradicted the identification documents I provided (polish passport), the assessment was fundamentally flawed. An assessment built on incorrect data cannot fulfil the regulatory

requirement to "reasonably" determine a product's appropriateness.

Please note that my answer to the question within same application form: "What other investments do you currently hold? (Tick all that apply)" I answer only " Trackers or funds" which referred to managed CTF Child Trust Fund and not Investment Fund. This further shows how lack of proactive verification by the CMC affected my trading profile.

Issue 10. Validity of the application

If nationality was wrongly recorded:

The application may be regulatorily unsound because:

- Client Due Diligence was incomplete or incorrect
- Risk assessment was based on false data
- Appropriateness decisions relied on invalid inputs
- Regulatory disclosures may have been misapplied
- Tax and reporting assumptions may be wrong

Conclusion

1. “Good faith” does not excuse breaches of FCA rules.
2. Execution-only does not remove appropriateness, fairness, or data accuracy duties.
3. Inaccurate FCA-mandated records materially reduce the weight of the firm’s evidence.
4. The FCA Consumer Duty applies to this account from 31 July 2023 onward, notwithstanding the March 2023 opening date.
5. Losses incurred after 31 July 2023 must be assessed under the Consumer Duty’s outcomes-based standard.

6. Because the systemic errors bypassed the mandatory warning, I was allowed to trade in a way I would not have done had you been properly warned of. As a result, I was permitted to trade high-risk instruments without an effective evaluation of whether I understood the risks involved. This failure materially contributed to my exposure to risk and the subsequent losses I incurred.

In her earlier comments to this service, Miss S also explained that she had raised a referral to Action Fraud about her interactions with CMC. A request was made to Miss S for an update on that referral. On 1 February 2026, Miss S stated:

“Current Status & Action Fraud Involvement

I have formally logged a report with Action Fraud. The case has been referred to the Alternative Disposal Unit for intelligence gathering. While further specific details from the police are pending, the matter remains under active review. From Action Fraud email: “It is important to note that these disruptive actions do not necessarily guarantee further review by the Action Fraud service, or a separate criminal investigation by a police force or other authority. This email is intended to inform you of the action taken based on your report, with the goal of preventing others from becoming victims of fraud and cyber crime. Due to the high volume of reports we receive, we are unable to respond to individual inquiries or provide specific updates on your case. However, we will contact you if we require any further information to progress the investigation.

At this stage, no identity theft has been confirmed; however, I am continuing to monitor my credit files etc. as a precautionary measure following Action Fraud advice. The situation is currently being investigated to establish the intent behind these actions and whether they constitute:

1. Unauthorised Modification (Computer Misuse Act 1990, Section 3): Specifically regarding the internal alteration of my

nationality, trading experience level and the generation of retroactive, inaccurate financial records.

2. Breach of Data Integrity (UK GDPR, Article 5(1)(d) & (f)): The creation of financial statements for a non-existent relationship is a fundamental breach of the Accuracy and Integrity principle

3. Regulatory Misrepresentation: I am seeking to establish if the firm has fabricated "historical" data to meet reporting requirements or to obscure other account discrepancies.

Data Requests & Rectification

I have submitted a formal request to CMC for all audit trails transaction data and full audit trails / metadata / administrative process (including application forms and account history). This information is essential to determine how several inaccuracies occurred and to establish whether these were the result of unauthorised access or other irregular intent.

Furthermore, I have issued a Rectification Request under UK GDPR, requiring the firm to correct all currently identified inaccuracies."

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 Miss S again for the additional further submission of 21 January 2026. I appreciate the considerable time, effort and personal sensitivity involved in preparing the response, and I understand the strength of feeling she has about what happened.

For completeness, I have re-reviewed the full complaint file, which covers the arguments and evidence that both parties initially provided, Miss S's response to the provisional decision and her latest submission dated 21 January 2026, including the

additional documentation and detailed regulatory arguments that she's raised. Having considered everything carefully and objectively, whilst I know this will come as a disappointment to Miss S, my final decision remains the same as that which I set out in my provisional decision. I'll explain why below.

But, before addressing the specific points raised, I think it's important to clarify the scope of my role. The Ombudsman service does not carry out a regulatory compliance audit, a GDPR assessment, or a legal determination under the Equality Act. My task is to decide what is fair and reasonable in the circumstances based on what the firm knew, or reasonably should have known at the relevant time. This means that arguments about whether the firm fully complied with every aspect of FCA rules, the Consumer Duty or data-protection legislation can inform my consideration but they do not in isolation determine the outcome.

1. Do Miss S's supplementary submissions contain new evidence?

In her latest response to this service, Miss S's submission contains expanded arguments, regulatory interpretation and her explanation of why she disagrees with the provisional decision. She has also attached:

- A restatement of her medical circumstances.
- A copy of her passport.
- Copies of communications.
- References to statutory bodies she has contacted.
- A chronology of events.

I have reviewed all of this material very carefully. And, while Miss S's submission provides further explanation, it does not in my opinion introduce new factual evidence that would materially change the assessment of:

- What CMC knew or ought reasonably to have known at the time she was trading.
- How CMC handled her account both before and after July 2023 (which is when the regulator's Consumer Duty was introduced).

Much of the content expands on issues already raised in earlier submissions, including concerns about:

- Inaccurate internal records.
- The appropriateness assessment.
- Her vulnerability.
- The regulator's Consumer Duty.
- Data protection compliance.
- Suitability versus appropriateness.
- Know Your Customer processes.
- The impact of her medical and linguistic circumstances.

These points were already considered in the provisional decision and in my subsequent response issued on 22 December 2025.

The passport that she provided is not new evidence about what CMC knew at the time, because the question is not whether she *has* a Polish passport, but whether CMC knew or reasonably should have known that she was a non-native English speaker or otherwise vulnerable *during the period when she was trading*. As I explained in the provisional decision, there is no evidence showing that CMC had that knowledge or should reasonably have inferred it from the information available to them at the time. So, while I do wish to acknowledge the additional material Miss S has provided, it does not alter the factual basis on which this complaint must be assessed.

I also want to be clear that additional arguments, interpretation of regulations or restatement of earlier concerns is not the same as new factual evidence. For evidence to alter the outcome, it must materially change what CMC knew or reasonably should have known during the onboarding or trading period. None of the new material provided meets that threshold.

2. Responses to Miss S's main Points (1 to 6)

Point 1: Failure to consider disability and breach of fair handling

I'd again like to fully acknowledge the seriousness of Miss S's medical circumstances and I do very much appreciate how difficult it must be for her to disclose this information. However, I have not seen evidence that she made CMC aware of her disability or its impact during either the onboarding or trading phases of her relationship with them. As I've already explained earlier, under regulatory guidance in force at the relevant times, firms are expected to take account of vulnerability where they have, or reasonably should have, knowledge of it. But, without Miss S's disclosure to CMC or any observable indicators, I cannot conclude that CMC knew or ought reasonably to have known about her disability.

It is also important to emphasise that a firm's duty to consider vulnerability arises when it has sufficient information to recognise a potential need. The fact that an individual may later disclose very significant health circumstances does not mean the firm ought reasonably to have identified them earlier without any indication or disclosure. I want to reassure Miss S that this does not diminish the seriousness of her circumstances; it simply reflects the evidential limits of what the firm could have known at the relevant time.

To be very clear, the fact that I am not upholding Miss S's complaint does not mean her circumstances were not taken seriously; it simply means the available evidence does not

show CMC breached their regulatory obligations when handling her account.

Point 2: Failure to address discrepancies in personal data held by CMC

Miss S argues that inaccuracies in CMC's internal records represent misconduct. I agree that any discrepancies are unfortunate and should be corrected. But even if I accepted that inaccuracies existed (which I'm not), these issues:

- Do not demonstrate that CMC acted unfairly when onboarding Miss S.
- Do not show the firm was aware the data was wrong at the time.
- Do not demonstrate that any inaccuracies caused her trading losses.

The question for this service is not whether CMC's record-keeping was perfect, but whether it was so materially deficient that it should have prevented Miss S from being allowed to trade and on balance, I do not find that it was.

Even where record-keeping discrepancies exist, the relevant question is whether those inaccuracies were apparent to the firm at the time and whether they would reasonably have altered the outcome of the onboarding process. There is no evidence that CMC were aware of any such discrepancy during onboarding nor that correct entries would have led to a different appropriateness conclusion given the knowledge-test results and the confirmations Miss S provided. In other words, even if the internal records were imperfect, the available evidence does not show they caused or contributed to her trading losses.

Point 3: Failure to adequately apply regulatory rules or consider the firm's anticipatory duty

Miss S has provided detailed regulatory arguments about the Financial Conduct Authority's COBS rules, SYSC and the

Equality Act. The central regulatory test, however, remains whether CMC had actual or reasonably inferable knowledge that Miss S was vulnerable or unable to understand the risks.

The broader regulatory framework Miss S cites including SYSC, COBS and Equality Act duties, does not require firms to infer vulnerability from demographic information alone, nor does it obligate them to assume language or cognitive difficulty without some indicator to that effect. As I mentioned earlier, the FCA's FG21/1 guidance specifically warns against treating age, nationality or employment status as determinative vulnerability markers in isolation. Therefore, even under an anticipatory-duty analysis, I am not persuaded that CMC failed to take action they reasonably should have taken.

Based on the information Miss S provided at onboarding:

- She passed most of the knowledge-test questions.
- She declared investment experience.
- She confirmed understanding of the risks.
- She gave no indication of any language, medical or cognitive difficulty.

Even if the firm's internal records later contained inaccuracies, there is no evidence they were aware of errors at the time or that they should reasonably have suspected them. As such, I'm not persuaded that CMC breached the relevant regulatory duties that Miss S has highlighted.

Point 4: The Consumer Duty applies from 31 July 2023

I have considered this point very carefully. While the Consumer Duty does apply to open products from 31 July 2023, the key question remains whether CMC's conduct after 31 July 2023 caused Miss S avoidable harm. During that period:

- She continued trading on an execution-only basis.

- She did not disclose any vulnerability or difficulty to CMC.
- CMC did not receive any communication from her indicating distress or misunderstanding.

On that basis, even under the Consumer Duty, as I've already explained, I cannot conclude that CMC acted in a way that created foreseeable harm or breached the obligation to support customers in pursuing their financial objectives.

For clarity, the Consumer Duty applies to ongoing relationships, but its obligations turn on what the firm knew or reasonably should have known when supporting the customer. After July 2023, the information available to CMC did not indicate vulnerability, misunderstanding or distress, nor did Miss S raise any concerns with them during this period. On that basis, I am satisfied that the Consumer Duty does not lead to a different outcome in this case.

Point 5: Causation and harm

I recognise that Miss S suffered a significant financial and emotional impact, and I am genuinely sorry for this. However, for me to be able to uphold a complaint and instruct CMC to pay Miss S compensation, I must be persuaded that there is evidence that the firm caused that harm through regulatory failure. But, based on the information and evidence available, I'm very much of the opinion that Miss S's losses resulted from the high-risk nature of leveraged spread betting and her own trading decisions. As such, I cannot reasonably attribute those losses to omissions or failures by CMC.

To reach a different conclusion, I would need persuasive evidence that a regulatory failing rather than the inherent risks of leveraged trading caused or materially contributed to the losses. I have not seen such evidence. Even if some aspects of record-keeping or later communications were imperfect, there is nothing to show these issues affected the trading decisions or the risks that Miss S chose to take.

Point 6: Remedies requested

Given my findings, I will not be instructing CMC to pay compensation, rescind the trading contract, acknowledge regulatory breach, or refer themselves to the FCA. Miss S remains entitled to pursue any separate issues regarding data accuracy with the ICO, but those matters fall outside of the jurisdiction of this service.

3. Responses to “Issues 1–10”

I have considered each of the issues Miss S raised. For clarity and proportionality, I have summarised my conclusions rather than repeat her detailed submissions. Miss S has raised a number of detailed points about potential regulatory breaches, data-protection errors and systemic failings. While these issues may be relevant to other statutory bodies she has contacted, my role is narrower. I must decide whether CMC acted fairly and reasonably towards her in relation to the spread-betting account and the losses that she incurred. That is the lens through which each of these issues must be viewed by me.

Issue 1: “Good faith is not a defence”

My decision does not rely on CMC acting in “good faith”. It relies on the evidence showing CMC followed the required onboarding process, provided clear risk warnings and had no reasonable basis to identify Miss S as vulnerable.

As such, regulatory compliance and not “good faith” is the basis of the outcome I have reached.

Issue 2: Failure of appropriateness assessment

Miss S has challenged the accuracy of the information recorded. However, CMC was entitled to rely on the data that Miss S entered unless it was obviously wrong. I have not seen evidence that CMC knew Miss S’s declarations were incorrect. And, passing most of the knowledge test reasonably indicated an understanding of how the proposed investments Miss S was

looking to deal in, worked. Therefore, I can't conclude that the appropriateness assessment was fatally flawed.

The FCA rules also allow firms to rely on customer-inputted information unless they are aware that it is manifestly wrong. Nothing on the face of Miss S's application nor in her performance on the knowledge test, would reasonably have alerted CMC to a contradiction or error. Accordingly, even if a drop-down field was later recorded incorrectly, this does not in itself render the assessment invalid.

Issue 3: Execution-only does not remove obligations

I agree that execution-only firms retain duties around appropriateness and fairness. The question is whether CMC breached those duties. But, for the reasons that I've already set out, based on the evidence I've seen, I do not find they did.

Issue 4: Inaccurate records reduce evidential weight

Even if I accepted that there were some inaccuracies in CMC's records (which I've already explained that I'm not), the remaining evidence still indicates that Miss S was appropriately onboarded, and CMC had no reason to believe that she lacked understanding or capability at the time. The overall evidential picture remains consistent.

Record-keeping is important, but occasional inaccuracies do not automatically undermine the reliability of all contemporaneous evidence especially where there is clear, consistent documentation of Miss S's declarations, knowledge-test responses and confirmations of understanding. In my opinion, these pieces of primary evidence carry greater weight than later-identified administrative discrepancies.

Issue 5: Application of Consumer Duty after July 2023

As I've already explained earlier, the Duty does apply, but the evidence does not show foreseeable harm, unmet needs, or

any failure by CMC to support Miss S so the Duty does not change the outcome.

Issue 6: Fair and reasonable test

I am satisfied that I have applied the correct statutory test and considered all of the relevant factors to determine what is fair and reasonable in the circumstances of this complaint.

Issue 7: Probability the firm knew Miss S's nationality

Even if the firm possessed Miss S's passport, there is no evidence that they knew its significance for vulnerability with her, or that it indicated difficulty understanding English. Therefore, this does not show unfair treatment.

Issue 8: Nationality as personal data

Any concerns about data accuracy fall under data-protection law, which Miss S has already stated that she is pursuing separately. To be clear, these issues do not demonstrate unfair treatment in relation to Miss S's trading losses.

To avoid any misunderstanding, I want to stress that no adverse credibility inference has been drawn from Miss S's nationality or linguistic background. The outcome does not depend on whether she is a native English speaker. Rather, it reflects the absence of evidence that CMC was, or reasonably should have been aware, that language was a barrier during the onboarding or trading stages.

Issue 9: Incorrectly recorded experience

I appreciate that Miss S has found this frustrating. But even if the experience field was recorded incorrectly, she passed most of the knowledge test, she confirmed her understanding of the risks and there is no evidence CMC knew the field was wrong. So, this does not alter the appropriateness assessment.

Issue 10: Validity of the application

Some record-keeping errors do not invalidate the entire regulatory process or indicate systemic failure on the firm's part. There is insufficient evidence that any errors materially affected whether CMC should have granted Miss S an account.

4. Conclusion

I fully recognise the profound distress this situation has caused to Miss S, both financially and emotionally. I do not underestimate the seriousness of the impact she has described.

However, when I apply the legal and regulatory framework that governs this service, including the requirement to decide what is fair and reasonable based on evidence, I cannot conclude that CMC acted unfairly or in breach of their obligations. I say that because as I've already explained, the firm conducted an appropriateness assessment in line with the rules; Miss S demonstrated an understanding of key concepts in the knowledge test and she confirmed multiple times that she understood the risks involved. There were no clear indicators of vulnerability disclosed or observed at the time and I've found that the Consumer Duty does not alter these findings.

I very much appreciate Miss S's concern that some information recorded in the application form, including her nationality and her level of trading experience, was incorrect. I understand why this has caused her distress. However, I have not seen any evidence showing that CMC knowingly altered the information or were aware at the time that any data was wrong.

Under FCA rules, a firm is entitled to rely on the information a customer provides unless it is manifestly incorrect. Even if some fields were inaccurately recorded due to user error, system design, or administrative issues, this does not in itself mean the firm knowingly altered Miss S's information or should reasonably have recognised an error at the time. Importantly, the appropriateness assessment did not depend only on the disputed fields: it relied primarily on Miss S's responses to the

knowledge test, where she correctly answered most questions and on her clear confirmations that she understood the key risks of leveraged trading. These factors are independent of the disputed entries and in my opinion, would not have led to a different outcome.

And, as I've already explained, in relation to nationality, even if this was recorded incorrectly, nationality in itself does not demonstrate vulnerability, nor does it require a firm to assume language difficulties without any indicator to that effect. And even when some record-keeping discrepancies may exist, they do not materially affect my assessment of what the firm knew, or reasonably should have known during onboarding or while she was trading. Taken together, I am not persuaded that the issues Miss S has raised about inaccurate data recording would have prevented CMC from allowing her to open or use the account, or that they caused or contributed to the losses that she later experienced.

I also note Miss S's update about her referral to Action Fraud. At present, this does not introduce new evidence about what CMC knew or reasonably should have known during the onboarding or trading period. As the Action Fraud referral has not resulted in any findings and may not proceed further, it would not be appropriate for me to delay any further in issuing a final decision.

I fully understand why Miss S feels strongly about the issues she has experienced, and this decision does not diminish the seriousness of the impact on her. However, in applying the fair-and-reasonable test, the decisive question is whether the evidence shows that CMC caused the losses she suffered through a failure in their obligations. For the reasons explained in detail above, I'm not persuaded that this is the case and as such, I'm not upholding her complaint.

My final decision

I'm not upholding Miss S's complaint and as such, I won't be instructing CMC Spreadbet Plc to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 5 March 2026.

Simon Fox
Ombudsman