

complaint

Mr M complains that in December 2014, Gain Capital - Forex.Com UK Limited closed some of his open positions. He also complains that Forex.com refused to transfer \$1,000 to his bank account.

background

In December 2014, Mr M had an existing account with Forex.com. He'd been trading foreign exchange through that account for some time.

Forex.com said the margin level of Mr M's account was too low, and so it closed his positions. Mr M said that if the positions had remained open, he would have received significant profits.

One of our adjudicators investigated Mr M's complaint, but he didn't uphold it. Briefly, he said:

- He accepted that Forex.com's spreads had recently widened, which meant the margin level of Mr M's account was no longer sufficient to support his positions. However, Forex.com was entitled to change its spreads. It wasn't required to give Mr M advance notice of those changes. Given the volatility in the instrument Mr M was trading, our adjudicator didn't think Forex.com acted unreasonably.
- Mr M's margin level fell below the required amount. Forex.com's terms and conditions gave it the right to close Mr M's positions in those circumstances, and there was nothing unfair about its decision to do so.
- He didn't think Forex.com was required to transfer the \$1,000 to Mr M. He thought it was entitled to keep the money to cover some of Mr M's losses.

Mr M didn't accept our adjudicator's conclusions, and so the complaint was referred to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm satisfied that Mr M's account did exceed the margin limit. As our adjudicator said, that means the terms and conditions of his Forex.com account allowed it to close his positions.

But what Mr M is complaining about is the widening of the spread, which directly caused his margin limit to be exceeded. He says there was no reason for Forex.com to do this.

Firstly I should say that Forex.com does have the ability to widen or change the spread. It has discretion in how it does that, which is confirmed in its terms and conditions. It does not have to manage or maintain the spread as others in the market might, and it is not for me to say how it should set spreads in the markets it covers.

Mr M says there was no good reason for Forex.com to change the spread. However, Forex.com has said it widened the spreads because the market Mr M was trading on was illiquid at the time. It seems to me that that is a plausible reason for the spread to widen.

There is insufficient evidence here for me to find that Forex.com should not have widened the spread.

It should be born in mind that this is a high risk form of trading and extremely fast-paced. Spreads can widen at short notice and margin requirements can change at short notice. For this reason it is not always possible for the business involved to request further deposits to maintain the margin and therefore positions can be closed very quickly. It is for this reason that customers are required to monitor their margin and they have ultimate responsibility to make sure that there is enough money to support their positions. I note that Forex.com set out in its terms that this was the case and that customers could not rely on Forex.com making a 'margin call' before it had to close positions.

I have taken note of the information Mr M sent about an action taken against Forex.com's sister firm in the USA. I have considered this but it does not directly relate to Mr M's complaint. It considered a very particular set of circumstances: the adjusting of margin on accounts on a certain day of the week and the losses that flowed from that. Mr M's circumstances are not exactly the same although I can appreciate that the issues are similar enough that he raises the issue.

I should clarify that the ombudsman service is not the industry regulator. That is the Financial Conduct Authority (FCA). It is the FCA that oversees a firms general business practices and how it deals generally with its customers. I have therefore passed Mr M's concerns, and detail of the action in the USA, to the FCA. I cannot say how the FCA will deal with that issue or whether it will subsequently contact Mr M. It will take whatever action it believes necessary in the circumstances.

my final decision

I do not uphold this complaint against Gain Capital - Forex.Com UK Limited. I haven't seen persuasive evidence that it treated Mr M unfairly in this case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 February 2016.

Laura Colman
ombudsman