complaint

Mr S complains that Forex Capital Markets Limited ('FXCM') manipulated his account to prevent him from closing his positions. He says this has resulted in him losing the balance of USD505,000 on his account.

background

Mr S held a trading account with FXCM. In November 2013, he had a number of XAU/USD long positions open when there was a sharp drop in XAU/USD. Mr S says that FXCM froze his account so that he couldn't close his positions.

The drop in XAU/USD caused the equity in Mr S's account to fall, triggering a margin call. This meant that he had to pay in more equity or close his positions, otherwise FXCM might close them itself.

FXCM then began to close Mr S's positions, starting with the trade with the highest loss. After the last trade was closed, Mr S had a negative balance on his account. In line with what it calls its "no debit" policy, FXCM credited this balance back to his account, leaving the balance at zero.

One of our adjudicators investigated Mr S's complaint and felt it couldn't be upheld. In summary, her view was that:

- FXCM had acted in accordance with the terms of business for Mr S's account.
- She didn't think the term which permitted FXCM to close Mr S's position due to margin requirements was unfair.
- Mr S held an "execution only" account. So it was his responsibility to monitor it to ensure he had sufficient funds for the positions he had open.

Mr S continued to say that FXCM was manipulating its systems. As the complaint remained unresolved, it has been referred to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided not to uphold it. I explain why below.

Mr S has said, in summary, that he was locked out of his account at a crucial point and left unable to make any trades. This caused his loss.

Mr S traded using a platform called MT4. Clearly, problems with internet connections between the platform and FXCM's systems can occur. What I need to decide is whether FXCM was responsible for anything which went wrong in this case.

FXCM has given me a record of all the account activity during the relevant period. This would normally show any trades which a client had tried to execute but had failed for any reason.

In this case, there was only one rejected order, which happened shortly before the margin call. It was rejected because the trade couldn't be executed within the price range set by

Mr S. But in any case, this was an order to go open a new position, not to close one. So if this order had gone through, it would have increased, not reduced, the amount of margin Mr S needed.

So I can't see any evidence that Mr S was trying to close positions. It's possible that this is because his own computer or the MT4 platform wouldn't let him get as far as the FXCM system. But I can't see that it was a failure at FXCM's end.

FXCM has checked its records and told us there were no systems failures during the period leading up to the margin call.

It seems to me more likely than not that any problems Mr S experienced were to do with his internet connection or the computer he was using. The evidence doesn't suggest that FXCM did anything wrong.

When Mr S opened his FXCM account, he ticked a box to say he accepted their terms and conditions. As our adjudicator pointed out, when there isn't enough margin in an account, these terms permit FXCM to close some or all of its client's positions, with or without notice. Clause 20.3 of the terms of business says:

> *"Where there is a shortfall between the Clients Account balance (taking into account P&L) and the Clients Margin Requirement for all open transactions, the Company may in its sole and absolute discretion choose to close or terminate one, several, or all of the Clients open margined positions immediately, with or without notice to the Client. If the Company may close one, several, or all of the Clients Margin Transactions, the Client should expect that the Company will close all of the Clients Margined Transactions."*

I've considered whether the above term is unfair and I don't think it is. Such policies are also designed to minimise debts arising, in the interests of both the client and the firm. I also think it's reasonably clear.

It's generally standard industry practice for businesses to close positions when margin limits are breached. Mr S has told us he is an experienced trader and has been working in the field for a long time. I therefore think it likely that he would be familiar with these sort of terms and would understand what they meant.

In this case, Mr S didn't have enough money to support the positions he had opened on his account. So FXCM decided to close Mr S's positions. I'm satisfied that this decision was in line with the terms of business to which Mr S had agreed.

Mr S held an "execution only" account. This means that he traded on his account himself, without advice from FXCM. He was therefore responsible for monitoring his own positions to ensure there was enough margin.

I appreciate that Mr S believes that FXCM somehow manipulated his systems to prevent him closing out at a profit. But I haven't seen any evidence to support this. My conclusion is that FXCM hasn't done anything wrong in this case.

my final decision

My final decision is that I don't uphold the complaint against Forex Capital Markets Limited for the reasons explained above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr S to accept or reject my decision before 9 July 2015.

Louise Bardell
ombudsman