

## **complaint**

Mr E's complaint is about a trading account he opened with Forex Capital Markets Limited (FXCM) in July 2011.

In summary the main points of his complaint are as follows:

- The extent of the risks involved in forex trading wasn't made sufficiently clear to him.
- He wasn't warned that he was practically guaranteed to lose his investment and that what he was being sold wasn't investment services but gambling services.
- He wasn't warned that forex trading was highly addictive and says that had he been told this he wouldn't have invested.
- Mr E has provided a lot of independent reports and studies which he says prove that there was more than a 99.9% risk of losing his deposit.
- He also likens Forex trading to pyramid selling and has provided a number of reports and studies to support his view.
- He felt that FXCM offered a product that effectively containing a loan. He believes this loan shouldn't have been allowed.

## **background**

Mr E opened an account with FXCM in 2011. He traded the account for a number of years up to 15 January 2015.

On this date Mr E had positions in the Swiss franc that were adversely affected by the decision of the Swiss National Bank to stop its attempts to cap the value of the franc. This caused the value of the franc to rise sharply and generated a substantial negative balance on Mr E's account. FXCM has a policy of forgiving negative balances. This was applied to Mr E's account but it meant that Mr E lost all of the money he had in the account.

Mr E's complaint was not upheld by FXCM. It was looked at by an adjudicator. It was his view that the complaint should not be upheld. He was satisfied that FXCM had made Mr E properly aware of the very high risk nature of margined forex trading. He was also satisfied that on 15 January the firm dealt with Mr E's Swiss franc trades correctly.

Mr E did not agree with the adjudicator. He confirmed that he was not complaining about his Swiss franc losses or what he was told about the risks of forex trading. He said the crux of his complaint was that the contract he entered into was '*bordering on fraud*'. He went on to say that he thought this type of trading was only suitable for professional traders.

## **my findings**

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

The essence of Mr E's complaint is that margined forex trading should not be marketed to ordinary retail investors like him. He has provided extensive research and reasons to support this view. I have read and considered everything that Mr E has sent us.

The Financial Ombudsman Service is not the regulator of financial services in the UK; that is the role of the Financial Conduct Authority (FCA). The regulator has decided that margined forex trading is an activity that can be offered to investors in the UK. It is not therefore for

me to decide that this decision made by the regulator is wrong. The majority of the concerns and arguments made by Mr E, in my view, need to be directed to the FCA and not the Ombudsman Service.

The FCA has decided that margined forex trading is a service that can be offered to retail investors. However, there are restrictions on the type of investor that this service can be offered to. In essence potential investors must be able to show that they have the knowledge and experience to understand the risks of this type of trading. This is to establish whether the service is appropriate for them. This is the only part of Mr E's complaint that it is appropriate that I look at.

The rules that cover this are set out in the FCA handbook (COBS 10). This rule says that a firm must obtain information from its client to enable them to;

*'...determine whether the client has the necessary experience and knowledge in order to understand the risks involved in relation to the product or service offered or demanded;'*

The usual process is for the firm to ask the potential investor about their knowledge and experience of investment markets. They are also asked to confirm that they are aware of the risks associated with the service to be offered.

This was the process that was followed when Mr E opened his account with FXCM in 2011. In the account opening forms Mr E confirmed that had one year's experience of trading securities and currencies. He also confirmed that he had read and understood the terms of business, FXCM's risk disclosure document, order execution policy and the high risk investment warning.

Having considered what Mr E told the firm when he opened the account I am satisfied that it was reasonable for it to have concluded that margined forex trading was an appropriate product for him.

It is therefore my conclusion that FXCM has met all of the requirements the regulator has placed on them. I am satisfied that it was reasonable for it to have concluded that margined forex trading was an appropriate product for Mr E.

### **my final decision**

For the reasons given above my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 2 September 2016.

Michael Stubbs  
**ombudsman**