

complaint

Ms L complains about information she received from IronFX Global UK Limited ('IronFX UK') before opening a spot forex trading account.

background

In the third quarter of 2014, Ms L phoned IronFX UK. She says they told her that if she set up an account via www.ironfx.com or www.ironfx.co.uk it would be set up with IronFX UK. They also told her the account would be regulated by the UK Financial Conduct Authority ('the FCA').

Ms L went ahead and opened accounts using www.ironfx.com. But she became a customer of IronFX Global Limited in respect of the accounts, not IronFX UK.

Ms L later brought a complaint about the accounts to this service. One of our adjudicators concluded we had no power to look into the complaint as Ms L was a customer of IronFX Global Limited, which is based in Cyprus and regulated by the Cyprus Securities and Exchange Commission.

Ms L then brought a complaint to us about the information she received from IronFX UK before opening her accounts.

The adjudicator who investigated this second complaint concluded it should be upheld. It was common ground that Ms L had called the customer support number she found on www.ironfx.co.uk. They'd told her that it made no difference if she completed the account registration via www.ironfx.com or www.ironfx.co.uk. And as she was a UK resident, the account would be set up with IronFX UK and this would be regulated by the FCA.

The adjudicator concluded this information was misleading. This was because a customer could only become a client of IronFX UK in its role of introducing clients to IronFX Global Limited, a company established and regulated in Cyprus. Trades on the accounts themselves, however, wouldn't come under the regulation of the FCA.

The adjudicator thought Ms L wouldn't have opened accounts with IronFX Global Limited if she hadn't been provided with misleading information by IronFX UK. He recommended IronFX UK pay Ms L £300 for the disappointment and inconvenience this misinformation caused. IronFX UK has agreed to pay Ms L this sum.

Ms L didn't accept all the adjudicator's conclusions. In particular, she didn't think that £300 was enough compensation for opening accounts which didn't come under the regulation of the FCA. So the complaint has come to an ombudsman for review.

my findings

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

It seems to me I have to decide (a) if IronFX UK did anything wrong and if so (b) whether £300 is the right compensation.

I think it's accepted on all sides that IronFX UK did something wrong. It misinformed Ms L that her accounts, if she opened them, would be regulated by the FCA. And it's clear this mattered to her, because she specifically asked the question.

On the second point, Ms L is clear that £300 isn't enough. I think her reasons can be summarised as being that financial regulation is laxer in Cyprus, so her investment has been at greater risk. For example, she says she's been more likely to lose money when making investment decisions because of laxer regulation. She's also concerned her funds may not have been segregated from other funds.

I'm sorry to disappoint Ms L but I don't agree with her reasoning. Cyprus, like the UK, is a member state of the European Union. It's subject to the same financial services directives as all other EU member states. The single market means EU financial institutions have the right in principle to provide financial services across borders into other member states, on the basis of their being regulated only by their 'home state'. This freedom is clearly based on the principle that the standard of regulation is broadly comparable in all member states.

So when providing information to Ms L, IronFX UK had no reason to suppose that, if they misinformed her and as a result she invested via a Cypriot financial institution instead of a UK one, her funds would be at greater risk.

However, I accept it mattered to Ms L to invest via a UK-regulated financial institution. She's entitled to be compensated for the disappointment and inconvenience she suffered when, despite reasonably relying on what IronFX UK told her, she discovered that wasn't so. Her disappointment and inconvenience include the fact that she's been unable to complain via the UK Financial Ombudsman Service about the actions of the Cyprus-based company. I think £300 is the right amount of compensation.

my final decision

I uphold Ms L's complaint to the extent I've described, and I require IronFX Global UK Limited to pay her £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 13 July 2015.

Roger Yeomans
ombudsman