DRN-4379039

The complaint

Ms D complains about the way Citibank closed her open positions due to insufficient margin. She says she was treated unfairly and caused a significant financial loss.

What happened

The trading account

Ms D held a Citi Private Bank account with Citibank. The account was held on trust for her two children, and Mr P, her husband, had power of attorney to trade on the account and execute transactions.

Mr P was a very experienced FX trader, and was categorised as an elective professional client in respect of derivatives. He had been trading with Citibank since 2009. Citibank has explained that 'the Account's investment profile was agreed with the client and [Mr P] to be 'speculative, with 'very aggressive' risk tolerance and 'material' capacity for loss'.

Citibank has explained that due to his knowledge and experience, Mr P was allowed to trade directly with Citibank's FX trading desk (rather than via a banker or investment counsellor) and he was also given access to FX Click, Citibank's FX margining system. This enabled 'a small number' of Citibank's more experienced clients 'to have access to real time mid-market prices for information and transparency as to margining calculations'.

Mr P's trading strategy

Citibank said that Mr P operated a strategy on the account of 'selling deep in the money FX options' which would require Citibank to pay him a premium. Mr P would then use this premium as collateral for his unrealised mark to market (MTM) losses on his options.

Citibank said that because of his experience, and his access to FX Click, he had early notice and transparency over the margin required for his positions and any changes.

When markets moved up, and therefore against his positions, Mr P would enter long FX positions to profit from any upward market movements to try and limit potential losses, maintain his margin and avoid a margin call.

Citibank showed how Mr P's strategy had been running unrealised losses of between $2.8 and $3.5 million since March 2014. The account was close to margin call in 2014, 2017, twice in 2018 and then 20 March 2020.

The account on 20 March 2020

In March 2020 Ms D's portfolio comprised two short FX call options on EUR/GBP:

- One was a short 18MM EURGBP Call Strike 0.8500, expiry 2 July 2020;
- The other was a short 18MM EURGBP Call Strike 0.8310 expiry 12 May 2021.

Mr P had sold call options to Citibank on the EUR/GBP currency pair, and each option gave Citibank the right to buy a notional amount of GBP from Ms D at the relevant strike price on the expiry date. If the strike price wasn't reached, the option would be 'out of the money' and Citibank would not exercise the option against Mr P – this would mean he'd make a profit as he'd pocket the premium which Citibank paid to buy the call option from him. If on the other hand the EUR appreciated against GBP and the price went above the strike price, then he would incur MTM losses, which would only be realised on expiry of the option. This is because he'd have to buy enough EUR/GBP to satisfy Citibank's option – and he'd be buying at market prices higher than the strike price at which he'd be selling to Citi. As a result, margin was required to be held for the duration of the option.

Citibank has explained that at the close of business on 19 March 2020, Ms D's account had unrealised losses of around $3,136,817 and $3,294,138 margin in the account. This meant the account only had around $157,321 excess margin – so a small market movement could lead to a margin call, and there was limited ability to open new trades to offset existing risk.

On 20 March 2020 due to the volatile market conditions caused by the pandemic, Ms D's account went into sell-out. This meant that unless Ms D added more collateral to her account the open positions would be closed. Citibank called Mr P to discuss the situation with him and explained that he had to deliver additional collateral or otherwise close his positions. During the afternoon Mr P had lengthy calls with Citibank in order to discuss the options available to him, including discussing in detail the prevailing market conditions, how his strategy had been performing, how FX Click had calculated the margin required and Citibank's rationale for the sell-out margin call.

Mr P did not want to deliver in more collateral but instead wanted to reduce the size of his FX forward positions to free up more margin on his account. Citibank also offered Mr P an exceptional time extension to provide additional funds by Monday 23 March 2020 – but Mr P declined.

As the situation with Ms D's account didn't improve, Citibank therefore decided to close the positions – and for that it sourced prices from four counterparties on the evening of 20 March 2020. Citibank explained that the sourcing of these prices was carried out in accordance with its Order Execution Policy. At the time, there was limited liquidity and Citibank explained that there were very few counterparties that were willing to trade.

It was only Citi Markets that quoted a price – and as such, Citibank said that this was the best available price on the market. Citibank went ahead and closed the positions, realising a substantial loss on Ms D's account.

Ms D's complaint

On 1 April 2020 Ms D raised her complaint. In short, she said:

- On 11 March 2020 Citibank had wrongly calculated the margin she had in the account, and initially the account was set to 'closed' as all positions were due to be sold.

  The error was rectified, but Ms D said this 'precedent confirmed […] a malfunction of the Bank's trading platform'.

- On 20 March 2020 Ms D's account had sufficient margin, but by the afternoon there was significant drop which reduced her margin level to 40%. Ms D's representative, Mr P, said that he was advised by Citibank to reduce his exposure to 'the levels indicated by FXClick as optimal', and he expected this would have the effect of returning the account's margin to above 100%. However, this didn't happen and the situation continued to deteriorate.

- Ms D complained about being told on that day that Citibank would be changing its margin requirements in future, when she had never been given any notice of this.
- Ms D was given insufficient time to react to the situation, either by adding more margin or by Citibank giving her account more time. She said that she was forced to sell her positions, crystalising a loss of over €3,000,000.
- Furthermore, Ms D said that she was told only one price had been offered, and she discovered the quote came from another Citibank entity. She said that price offered was significantly different to the price on FXClick, and represented a difference of around €342,074. She also suggested it was suspicious that 'the offered prices were set at a level that would assure that all my cash assets plus my profits for my forward positions would be required to cover the loss from the closing of the option positions'.
- She said that she was initially told that all her cash would be converted to euros to avoid FX fluctuations, but this did not happen with her profits.

Ms D asked for some detailed information about what had happened on 20 March 2020, and for compensation of just over €360,000.

Citibank looked into Ms D's complaint, but didn't think it should be upheld. It said that the event on 11 March 2020 was a human error, which it had promptly identified as such, and no losses or transactions had resulted from it.

It said that it didn't agree with Ms D that she should be paid the difference between the price that was achieved on selling her positions, and the price being displayed on FX Click. It said that Ms D, and Mr P, knew that FX Click was not a trading platform and was a mid-price MTM display – as such it was not reflecting available trading prices.

Furthermore, Citibank said that given the lengthy discussions with Mr P throughout the day on how to manage the situation, it wasn't until the evening that he instructed Citibank to proceed with the sale – by which point there was limited liquidity. Finally, it said that the delta of Ms D's FX Options was over 70%. It said that even in normal market conditions, which these weren't, 'it would have been difficult to find a counterparty who wanted to sell an option with that delta'. It listed the brokers it had approached on 20 March 2020 and explained that it was only Citi Markets that quoted a price.

Finally, it said that in relation to some FX forwards which Mr P said he had been advised to open in order to improve the account's position, Citibank didn't agree it had done anything wrong.

It said that the market was failing, so Mr P's long FX forwards were moving against him. As a result, in one of the conversations on the day, Mr P enquired as to whether he was over-hedged and he was told he was. It was then Mr P who elected to sell some of the long FX forward positions in order to reduce the amount of margin required on his account.

Citibank said that at that moment there was no way of predicting how the market would perform, and it later transpired that it would've been better if Mr P had not closed those FX forward positions – but Citibank said there was no reason why it ought to cancel that trade or refund Mr P. It said that this would be like asking Citibank to take on Mr P's losses.

Citibank therefore declined to offer Ms D any compensation. Ms D remained unhappy and referred her complaint to this service. One of our investigators looked into Ms D's complaint, and in short concluded that it shouldn't be upheld. In summary, he said:

- He was satisfied, on balance, that Mr P would've known how FX Click worked and that it wasn't displaying actual tradeable prices.
- He acknowledged Ms D and Mr P were sceptical about Citibank's evidence around which banks it had contacted on 20 March 2020 to source prices – but he was satisfied on the balance of probabilities that the price Citibank was able to get for Ms D was the best available at the time.

Ms D and Mr P disagreed with the investigator and provided detailed comments in reply. In summary:

- They disagreed the investigator had properly collected or considered the evidence when reaching his conclusions. His findings were contradicted by the 'hard evidence' which Ms D and Mr P had provided.
- They didn't agree that the previous error on 11 March 2020 was unrelated to what happened on 20 March 2020.
- They didn't feel the investigator had properly taken into account the extraordinary circumstances they were facing due to the pandemic and the fact that they were 'captive customers'.
- They felt that the investigator didn't question the reliability of the evidence provided by Citibank. It wasn't acceptable that there wasn't a signed user agreement for FX Click – and Ms D and Mr P said there wasn't one because they never received it or signed it.
- Overall, they maintained that FX Click wasn't a price indication tool and said that this wasn't how Citibank described it either.
- They felt that the investigator had not given due consideration to their status as 'captive customers' – in particular the fact that they were unable to add additional margin and that they could only trade their options through the Citi Private bank trading desk, which 'severely limited the number of competitive suppliers to only one'. They said that they were offered a 'predatory' price that was 10% higher than what they were quoting on the FX Click software. They said that the investigator had given no regard to the distress they had suffered as a result of the bank's actions both on 11 March 2020 and 20 March 2020 – which resulted in the loss of their family's savings.
- They maintained that Citi had provided questionable and unreliable evidence – and they provided detailed submissions about our investigation, the evidence they believe ought to have been obtained or corroborated and the reasons why they weren't persuaded that Citibank had offered them best execution when closing out their positions.
- They maintained that the price they were offered was far higher than what was showing on FX Click.
- They concluded by referring to certain decisions in other cases which they said were relevant to their complaint. And they set out their claim of €1,560,400 as compensation.

As agreement couldn't be reached, the case was passed to me to consider.

I issued a provisional decision in June 2023:

The provisional decision

I should start by saying that whilst I've read the very detailed submissions that Ms D and Mr P have provided, I'm not going to respond to every question they've raised or every issue they've covered. That isn't the purpose of my decision. Instead, I'll focus on what I consider to be the key issues and explain my decision and reasons for reaching it. I also want to make clear that the rules which govern this service say that I am able to consider any evidence, whether or not it is admissible in court, and ombudsman decisions do not set a precedent in the same way a court judgment does. Therefore I won't be commenting on previous decisions issued by other ombudsmen on different cases.

I think it's important that I set out the relevant applicable standards – as laid out by the Financial Conduct Authority (FCA) in its Conduct of Business Rules (COBS).

The applicable standards

The Financial Conduct Authority (FCA) issues rules for business in a section of the Handbook called the Conduct of Business Rules (COBS). COBS 11 outlines obligations on firms that are dealing and managing – the below are relevant extracts from the rules as they were written in 2018.
COBS 11.2A.2 – Obligation to execute orders on terms most favourable to the client

(1) a firm must take all sufficient steps to obtain, when executing orders ,the best possible results for its clients taking into account the execution factors.
(2) The execution factors to be take into account are price, costs, speed, likelihood of execution and settlement, size, nature of any other consideration relevant to the execution of an order.'

COBS 11.2A.6 says:

'However if a firm provides a quote to a client and that quote would meet the firm's obligations to take all sufficient steps to obtain the best possible result for its clients under COBS 11.2A.2R if the firm executed that quote at the time it was provided, then the firm will meet those same obligations if it executes its quote after the client accepts it, provided that, taking into account the changing market conditions and the time elapsed between the offer and acceptance of the quote, the quote is not manifestly out of date.'

COBS 11.2A.8 sets out the best execution criteria which need to be taken into account to determine whether a client has been given most favourable terms:

a) The characteristics of the client including the categorisation of the client as retail or professional;
b) The characteristics of the client order, including where the order involves a securities financing transaction (SFT);
c) The characteristics of financial instruments that are the subject of that order;
d) The characteristics of the execution venues to which that order can be directed;

COBS 22.5.10 says:

'A firm must not open a position in relation to a restricted speculative investment for a retail client unless the margin posted to open the position is in the form of money'.

COBS 22.5.13 says:

(1) A firm must ensure a retail client's net equity in an account used to trade restricted speculative investments does not fall below 50% of the margin requirements (as outlined in COBS 22.5.11R) required to maintain the retail client's open positions.

(2) Where a retail client's net equity falls below 50% of the margin requirement, the firm must close the retail client's open position(s) on restricted speculative investments as soon as market conditions allow.

(3) In this rule 'net equity' means the sum of the retail client's net profit and loss on their open position(s) and the retail client's deposited margin.'

My findings

In reaching my findings, I've focused on what I consider to be the key aspect of this case – and that's whether Ms D was given best execution on the evening of 20 March 2020. I've taken into account:

- The applicable standards I've set out above;
- The terms of the account which the investigator already set out;
- The evidence provided by both parties, including their testimony;
- The evidence of the status of the account and the time the positions were closed.
- The wider economic circumstances caused by the pandemic.

Ms D and her representative have consistently said that the error which occurred on 11 March 2020 ought to be explored in more detail, and have raised several questions relating to that incident. This is because on 11 March 2020 an error occurred whereby a significant amount of collateral in Ms D's account was lost for a short time, causing the account to flag as having insufficient margin. Ms D says that this shows Citibank's systems weren't working properly, and inferences should be drawn from this incident when looking at what happened on 20 March 2020.

However, I'm satisfied that Citibank has appropriately explained what happened on 11 March 2020 – and in particular, has clarified that the error was rectified within a few short hours and was a human error. There were no positions closed or altered as a result of that error and Citibank immediately apologised. Therefore, I've seen insufficient evidence that this incident had any financial impact on Ms D's account.

Given the evidence available, I'm also not persuaded what happened on 11 March 2020 is relevant to what happened on 20 March 2020. I don't agree that it would be fair and reasonable to draw any inferences, or assume that the way Citibank calculated Ms D's margin requirement on 20 March 2020 was deficient purely because an error was made 9 days prior.

I've seen no evidence that Ms D's required margin on 20 March 2020 was incorrectly calculated or that there was another technical issue which meant Ms D actually had more margin available than Citibank had calculated. For these reasons, I will make no further comments on this earlier incident.

In order to decide what's fair and reasonable in this case, I've focused on what I consider the key aspects of what's happened – that is, whether Ms D's account did in fact have less than 50% margin on 20 March 2020 and, secondly, whether Citibank gave Ms D the best available price when it went ahead and closed her options.

Did Ms D have sufficient margin to keep her positions open on 20 March 2020?

Ms D and her representative have made a number of submissions around the status of the account on 19 March 2020 and 20 March 2020, and in particular, why the sell-out was triggered on 20 March and not the previous day when, according to Mr P, there was more volatility in the market.

But whilst I've considered these submissions, I don't agree they make any difference to what Citibank was required to do on 20 March. Citibank has explained that the account was already in sell-out on 19 March – but this occurred outside of trading hours and as such, a sell-out notice wasn't triggered. I'm not persuaded that the fact the account went into sell-out on 20 March and not 19 March makes much of a difference to Ms D's actual complaint. I don't agree it shows or is evidence of an issue with the way that Citibank was calculating how much margin Ms D actually had available. Furthermore, it's clear to me that whilst the situation improved a little on the morning of 20 March 2020, it dropped further by the afternoon of 20 March 2020. Given the extreme and widely reported volatility caused by the pandemic in the markets at that time, I don't find this fluctuation in any way abnormal.

The only difference that not closing Ms D's open positions on 19 March 2020 could've made is if by actioning the sell-out on 19 March, Citibank could've reduced some of the losses experienced by Ms D on 20 March. To be clear, the vast majority of the losses suffered on Ms D's account were simply unrealised losses caused by the options being out of the money – those losses were not caused by anything Citibank did or didn't do, and they would still have been incurred on 19 March. But there's a possibility that the market may have offered a better price for Ms D's options on 19 March 2020. I don't have any evidence to that effect.

But even if I did, I'm not persuaded I'd end up concluding that's fair. I say this because in considering this scenario, I've taken into account relevant caselaw on the issue of a broker's responsibility to liquidate positions in the event of a client having insufficient margin. The courts have established that the overriding contractual obligation to manage the risk on the account remains the client's. Ms D, and Mr P on her behalf, could've chosen to close their open positions or add more margin at any point on 19 March 2020 – they chose not to do so. They had full visibility of the account's status via the FX Click system – so they knew that they were close to the point where the account would go into sell-out.

It was their responsibility to ensure there was sufficient margin on the account to keep the positions open, and it was ultimately their decision to decide what and how much risk to take when keeping those positions open – for example, adding more margin would've allowed the positions to stay open for longer, but would've also potentially increased their losses.

Equally, deciding to close their positions would've crystallised existing losses, but removed the possibility of benefiting from favourable market movements.

These were investment considerations which only Ms D, and Mr P on her behalf, were responsible for making. Citibank had no responsibility to make those decisions for them.

Citibank had discretion in the terms as to how to address the fact that Ms D had insufficient margin to keep her positions open. That discretion allowed it to decide how best to deal with the account, bearing in mind its regulatory obligations and the overall risk of the account having insufficient collateral to cover the losses.

But this discretion did not include making assumptions about future market movements – and when considering this, I've had to take into account the exceptional market conditions which were being experienced worldwide. In my view, and as I explain below, Citibank exercised that discretion fairly and reasonably. So even if it was possible to determine what price Citibank may have achieved on 19 March 2020, in my view it wouldn't be fair and reasonable to conclude that this would mean Citibank paying Ms D compensation.

The real question is whether Citibank was right to insist that Ms D take action on her account on 20 March 2020. And whilst I appreciate that Ms D and Mr P will profoundly disagree, the evidence I've seen persuades me that the account didn't have sufficient margin to keep her positions open. And as a result, in line with COBS and the terms and conditions of the account, Citibank was entitled to close her open positions in order to put the situation right.

Having looked at the evidence, I'm satisfied that Ms D's account had less than 40% available margin by the evening of 20 March 2020. This was primarily due to the market moving against Ms D's open positions, as well as currency movements between the EUR and USD which caused a drop in the amount of collateral Ms D had available on her account. I've seen insufficient evidence that there was any error in Citibank's calculation, and certainly the level of unrealised losses on Ms D's account are well established by the evidence available.

And, considering the situation at the time, I don't agree that Ms D was treated unfairly when Citibank first offered her an extension to add more collateral, and then proceeded to close out her positions.

Ms D has explained that at the time, the restrictions introduced as a result of the pandemic made it impossible possible for them to add more margin to the account. But this wasn't something that Ms D or Mr P mentioned at any point during the lengthy phone calls on the day. Even if I had evidence that confirmed what Ms D and Mr P are now saying (and my own research shows that electronic money transfers were not subject to specific restrictions on 20 March 2020), I'm satisfied that the size of Ms D's unrealised losses combined with the market volatility being experienced at the time meant that Citibank was entitled to proceed with the closure of the positions – and I note that it only did so once Mr P gave it instructions to proceed. Furthermore, Ms D and Mr P knew that the account had insufficient margin from the previous day – they could monitor the status of the account in FX Click in real time.

Before I discuss the second key issue in this complaint, namely whether Citibank provided best execution, I've also considered Mr P's detailed comments about the FX Click system. I'm sorry to say that I'm not persuaded by his submissions. First of all, I'm not persuaded that the absence of a signed agreement is material – ultimately Mr P used this software for a number of years before 2020. It was his responsibility to ensure he understood how it worked, and if he proceeded on making investment decisions based on software he was using without a signed agreement, I'm persuaded that's a risk he accepted to take.

But I'm not convinced that's credible. I think it's clear that Mr P knew what FX Click was, the information it displayed and how to use it. I say this because Mr P's experience and level of sophistication means that he would not have been given access to such a system unless he fully understood the information it displayed. And I'm satisfied that Citibank has clearly explained that FX Click is not a tool designed to be used to determine actual market prices but as an indicator of MTM losses and margining requirements for the account, among other trading information it displays. This is precisely how Mr P was using it.

In any event, whatever the information on FX Click, I'm satisfied that it was not displaying information directly from liquidity providers – that's why Citibank had to source quotes directly from the market, and Mr P was aware of this. So the key issue is whether the price that Ms D and Mr P eventually received was the best available price at the time – and not whether it was or wasn't in line with what FX Click was displaying.

Did Citibank provide best execution?

When deciding whether Citibank provided best execution in line with COBS, I've taken into account the execution factors which COBS lists. In Ms D's case, it's clear to me that the size of her positions (and the size of the Delta), the timing of the trades as well as the overall volatility in the markets at that time were all factors which would influence the price that she would receive when closing her positions.

Ms D and Mr P have made detailed submissions about the evidence Citibank has provided and why they don't consider it persuasive. As a result of some of their concerns, the investigator requested more information – and a copy of this information has been sent alongside this provisional decision.

In reviewing this evidence, I'm satisfied that Citibank acted fairly and reasonably. It's clear to me that Citibank requested prices from a number of liquidity providers, and only received a price from Citi Markets. To be clear, this is a separate legal entity and I must consider it as such.

Citibank has provided evidence that shows that on the evening of 20 March 2020 it asked its liquidity providers for prices on the two options Ms D had open – four of them declined, and only Citi Markets provided a price to buy the options from Ms D. As a result, and given the extremely challenging situation at the time, this was the best available price at that moment. I don't agree that Citibank had any other solution – in my view, it had to accept the price from the liquidity provider, in order to bring Ms D's account back in line. Furthermore, if it had not taken such action, despite receiving a price, and this later increased Ms D's losses, it may well have been found liable for not acting on Mr P's instructions – since he had ultimately asked Citibank to go ahead with the closeout.

The fact that there were limited options available at that moment in time isn't something that I can hold Citibank responsible for. And as I've said above, the size of the positions and unrealised losses on Ms D's account were such that being able to find liquidity would've been challenging even under normal market conditions – which I accept these weren't.

I've considered Ms D's and Mr P's comments about being 'captive customers', but I'm sorry to say that I don't consider that definition applies to them – and in any event, I don't consider it relevant. The reality is that Ms D's account was carrying very significant unrealised losses, and the market was going against the positions she had open. Citibank had an obligation to ensure that her account did not go into negative balance, because if it did it would need to cover those losses. And it had an obligation to take action on her account as soon as she had less than 50% margin available – which was the case at that moment in time.

Given these circumstances, I'm not persuaded Citibank did anything wrong when it chose to accept the (only) price it had been quoted and proceeded to close Ms D's positions. In addition, I'm satisfied for the reasons I've given that contacting five liquidity providers, considering their size, means that they were a reasonable proxy for the overall market liquidity for the positions Ms D had open at the time. I'm satisfied that Citibank's approach here was fair and reasonable.

I should also be clear that even if I thought the price was not accurate, the remedy I'd propose would not involve refunding Ms D's losses. The closure of her positions crystallised losses on certain positions that were running at a loss. But it's important to also note these trades were part of a strategy that involved Ms D being paid a cash premium by Citi for writing the options. So the loss Ms D sustained due to the closure of the positions can't fairly be viewed in terms of the crystallised open positions in isolation. When taken alongside the premium she collected, her losses were much lower and, in my view, simply reflective of the market position her trades were in at the time in which they were closed. I'm satisfied

Citibank was not responsible for the losses that were crystallised.

All I can hold Citibank responsible for is deciding to close Ms D open trades on 20 March 2020 and the price it received from its liquidity provider. For the reasons I've explained, I'm satisfied it was entitled to proceed to close out those trades – and I've seen sufficient evidence to persuade me that the price it received was the best available price at the time.

Response to my provisional decision

Ms D didn't agree with my provisional conclusions, and provided detailed comments in response. In summary:

- The ombudsman had responsibilities and was required to make decisions 'based on strong evidence' and 'in line with the law'. She said this meant that decisions needed to be 'backed by good evidence and comply with the law', and the ombudsman could not make arbitrary decisions 'without carefully considering the facts and circumstances of each case'.

- She made additional comments around the margin error on 11 March 2020. She said there was no evidence from Citibank that the error was 'human error'. She said that I had 'failed to base [my] no harm no foul conclusion on the strong evidence [she had provided], which has led to [my] opinion, on this issue, of the event that occurred on March 11th 2020 to be biased, unfair and untransparent in the way it was reached'.

- She said that my conclusion that Ms D's available Margin on 20 March 2020 had dropped was not supported by evidence, other than Citibank's testimony. She said I omitted to take into account 'the four very important pieces of strong evidence' which she had repeatedly provided, and were never refuted by Citibank:

    - Its claim that the sell-out notice was not triggered on 19 March 2020 was untrue, misleading and shows that I was biased for accepting its statement as true.

    - She said that FX was a 24 hour a day market, and Citibank had offices all around the world, trading 24 hours a day. She gave some examples of why she thought Citibank's claim was not realistic, and concluded that in 'the real world', what would've happened is that any open trading desk would have 'definitely' contacted Ms D to inform her of the status of her positions and ask for instructions.

    - She gave examples, which she said were supported by a Bloomberg graph, that demonstrated that the market conditions which I accepted as true were in fact more severe on 19 March than on 20 March.

    - She made further comments around the EUR/GBP movements and referred to the fact that according to Citibank's FX Click Margin Analysis reports, Ms Ds account margin was ranging between 75.81% and 108.95%, if not higher. She said it was 'definitely not below 50%, as it was on March 20 in better market conditions'.

    - As a result, my decision was biased and erroneous, because given, as she said, thar market conditions were better on 20 March than on 19 March, when she had sufficient margin, her account should not have been in sell-out.

    - She said that she was given bad trading advice by the Citibank account manager. She said that on 20 March 2020, ‘an hour after Mr P had received the sell-out notification, Ms D’s account was at 48%’. Mr P, her representative, was given options to ‘resolve the account’s margin problem’. One of the options was to close out FX forwards. She said that with Citibank’s ‘advice and assistance’, her representative, Mr P, executed forward trades in order to improve the account’s margin. She said that during the entire process Citibank confirmed the correctness of the very step of the trade Citibank had designed and proposed. She said that Citibank had calculated that if Mr P followed this strategy, the excess margin on the account would’ve increased to over 100%.

  - Mr P therefore agreed to execute the trade, but instead despite the spot levels of EUR/GBP staying essentially the same, Ms D’s account did not improve and was still in margin deficit. In fact, she said, the excess margin had further reduced by 18%. She said that when they queried whether the trade ought to have been reversed, it was confirmed that the account’s margin would improve. In fact she said that it would have closed above 75%, which would mean that they would’ve had until 24 March 2020 to bring up the margin to over 100%.

  - I did not make any reference to this incident in my provisional decision, and as a result my decision was biased, unfair and lacked transparency.

- Ms D said that there was no evidence that Citibank ever received a reply to the message it sent when it asked the five banks for prices before liquidating her positions. The evidence Citibank submitted did not include any specific prices or quotes, and the messages from Bloomberg which Citibank had provided did not show any specific quote. Despite this, I had concluded that the banks were indeed contacted by Citibank had indeed provided Ms D with the price it had received. My conclusion on this was inaccurate, biased, unfair and not based on evidence submitted by Citibank.

- She concluded by saying the decision was unfair because:

  - It failed to consider the relevant evidence submitted by her.

  - Failed to consider the exceptional circumstances of 20 March 2020 in relation to the amount that could be wire transferred from a personal account, without increasing the limit which would’ve required an appointment in branch.

  - Failed to address key issues such as bad trading advice, which instead of improving the situation, ‘completely destroyed Ms D’s margin’.

  - Failed to address that the simple solution of reversing that trade would’ve improved the situation, but Citibank failed to do it.

  - Failed to provide an adequate explanation as to the information used.

  - Failed to ‘exercise [my] full investigative powers’ that DISP provided to request the unredacted names of the banks and traders involved, and accepting only what information Citibank was willing to provide – even though their arguments were not valid.

She therefore asked that I reverse the provisional decision and uphold the complaint.

Citibank provided some further information, which was shared with Ms D. Prior to me drafting this final decision, it also provided the trade capture notifications that were automatically produced by the system Citibank used to execute Ms D's trades.

Before issuing this final decision, I shared with Ms D a copy of these notifications. Ms D disputed the authenticity of these emails, as well as their reliability or what they purported to demonstrate.

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.

Ms D has made comprehensive comments explaining her disagreement with my provisional decision. I understand why she disagrees, and her strength of feeling on the matter. However, I can confirm that I've approached her case fairly and impartially and considered the evidence in its entirety. Whilst she is entitled to dispute the validity or legitimacy of the evidence provided by Citibank, I'm not persuaded that any of the evidence it has provided has been fabricated or otherwise tampered with in such a way as to mislead the service into not upholding her complaint.

In my view, and I appreciate Ms D disagrees, the situation on 20 March 2020 was highly complex and volatile, and unfortunately Ms D's strategy was high risk and her margin situation extremely stretched. None of these circumstances were created by Citibank, nor could it do anything to mitigate these circumstances for her.

Furthermore, whilst Citibank had obligations to Ms D, these did not include it taking on Ms D's risk or sustaining losses that were otherwise caused by Ms D's trading decisions. This means that once Ms D's margin situation deteriorated, and her representative agreed to liquidate the positions, Citibank was required to execute that trade at the best available price. COBS 11.2A.2 lists what those execution factors are – and crucially they include 'likelihood of execution and settlement, size' as well as any other consideration relevant to the execution of an order. It goes without saying that the volatility in the markets at that time would be one of those factors affecting the execution of the order.

11 March margin call

Ms D has made some further points about the erroneous margin call on this date. I've already explained in my provisional decision why I don't consider it relevant and why I'm not persuaded it would be fair and reasonable to infer or assume that there were issues with the margin call 9 days later purely based on this incident. I therefore have nothing further to add to what I said in my provisional decision on this issue.

Margin situation on 20 March 2020

I've considered Ms D's comments around this, but I'm not persuaded by the information she has provided. Contrary to what she has said, Citibank has provided persuasive evidence throughout the course of the investigation to demonstrate that, far from improving, the amount of available margin Ms D had on her account on 20 March was reducing. In support of this, Citibank has provided:

- A chart from Bloomberg showing that volatility in EUR/GBP was at its peak on 20 March 2020;

- Calculation of the increasing Gamma levels on Ms D's positions;

- A snapshot of Ms D's account on 19 March 2020 which showed her overall total unrealised mark-to-market losses at over $3,136,817 which were not offset by Ms D's profits from her delta hedging.

- A spreadsheet of the margin calculations on 20 March 2020 which showed the significant fluctuations in Ms D's overall Margin NOP, ending in the need to either close-out Ms D's positions or add more collateral.

- Intraday charts showing EUR/USD and EUR/GBP movements which corroborate what Citi has consistently said about Ms D's account on the day, and how it was being affected by the volatility in currencies – both in relation to her positions, and in relation to the value of her collateral which was also being eroded by the Euro weakening against the dollar.

In my view this evidence demonstrates persuasively that Ms D's account was correctly identified as having insufficient margin on 19 March 2020 and 20 March 2020, and this was clearly due to a combination of factors beyond Citi's control, including the way Ms D had been managing her account for a significant period of time. As I said in my provisional decision, Ms D's account had been carrying unrealised losses for a number of years.

I'm not persuaded there's sufficient evidence to show that this evidence has been in any way altered or fabricated to show Ms D's account in a worse light than it was at the time – and the telephone conversation Mr P had with Citi at the time shows that he was well aware of the difficult position the account was in, and the limited range of choices he had available to avoid a sell-out.

In one conversation on 20 March 2020:

'However, what I see from reducing the exposure by 1.5million, it's more than just offset the Delta, it's created a bit of, as you said, under hedge. Because the system will look at the forward and the option together and assess the impact in both directions, it's now looking up market for that longer dated position as the worst. So it's still modelling close to 2 million euro exposure. Before you did that, right, I'm not sure what the NOP on the GBP downside was modelled at, but I guess it was around the same. So on NOP and margin basis, I don't think that trade necessarily had much impact. The problem with trying to hedge the option with forwards only is that you might be able to perfection hedge the delta at one point in time, but because it's looking at up market and down market which is uing a factor of the Gamma, not just Gamma on its own, it's always going to leave you with exposure that you can't hedge using forwards. So on that basis, it doesn't have too much impact on your margin requirement. And the problem at the moment is just that the net equity is eroded by the mark to market situation.'

And during further discussions Ms D's representative asked what would've happened had he not placed that trade, as they were looking through the system he was told:

'*Your margin was dropping that you were selling some and you couldn't keep up fast enough with how much you needed to sell. Your margin kept dropping. Now that it rallied back up, you're saying OK I didn't want to do this, I shouldn't have done that and my mark to market would be in a better position You're 100% correct. It would be in a better position but you didn't know that it was going to rally and you didn't you couldn't afford to wait'*.

Ms D's representative asked why, and he was told *'because if you had, you would have gone down even further and you would have been at zero as you rightly said'*.

And later in reference to Ms D's margin situation, Citi explained to Mr P that '*from where are* *your currently at 36, just 37 percent'*

'I don't see how you get back to 100'

Mr P: '*right'*.

This conversation clearly shows that Mr P was aware of the margin situation on the account, and the situation that had caused it. It also shows the rationale behind the initial trade.

In my view, all this evidence demonstrates that Ms D's account was in a profoundly difficult situation on 20 March 2020, and it was fair and reasonable for Citibank to have considered the need close Ms D's positions in order to manage the situation in line with the rules I've quoted above, as well the terms of the account. Furthermore, it's also clear to me that the market situation was unprecedented, and this is something Mr P also acknowledged on the phone with Citibank.

Finally, before instructing Citibank to execute the trades, Mr P was given the option of adding more margin to the account – and Citibank explained that he was given a few days to do this if he wanted. Mr P declined. As I explained in my provisional decision, I'm not persuaded there were restrictions such that it wasn't possible for Ms D to add more collateral, which is the argument that has been raised with the service. But even if this proved to be challenging, this isn't something that Mr P raised with Citibank at the time – and instead he instructed Citibank to proceed with the closure. I'm not persuaded it would be fair and reasonable to hold Citibank responsible for any financial consequences relating to this instruction, given that as I've said above, I'm satisfied Ms D didn't have sufficient margin to keep her positions open.

Ms D has also provided further comments on a trade that Mr P carried out earlier in the day. This trade essentially was based on Mr P's understanding that he was over hedged, and given the way the market was going and his need to improve his margin situation, he was looking to remove the relevant trade.

The transcript of the telephone call shows that Mr P had called to 'do a trade'. They discuss what Mr P was seeing on FX Click, and this included the fact Mr P's margin at that point was 27%. Although he explained this was 'impossible'. It's clear to me that during this call, Citibank didn't advise Mr P to buy or sell a particular investment, or advise him to make a particular trade. And as a professional client, I'm satisfied Mr P was aware that it was his responsibility to ensure he was comfortable with the trade he was making on behalf of Ms D and the reasons why.

He explains to the trader at Citibank that based on the information he was seeing, he needed to reduce his hedge by 1.4 or 1.5 million euros, he asks for confirmation from the trader that this was what he was seeing too – and he confirms. He initially asks the trader to only do the trade for 1 million euros in order to see 'how it improves', but he then changes his mind and instructs the trader to go ahead and place the trade for the whole amount. There's then a brief discussion about the market situation.

Shortly after this trade, Mr P calls Citibank again because his margin situation hadn't improved in the way he expected – and so this trade was discussed over the phone with Citibank multiple times. Mr P agreed it was his decision to go ahead with the trade, but his claim was that since it had no impact, he should've been told this and he would've made a different decision.

But I'm not persuaded it would be fair and reasonable to conclude that the information Mr P was given was wrong. I can see this was discussed straight after the trade was placed, and

Citibank explained to Mr P that Ms D's account was leveraged to such an extent, that reducing the over-hedge on the euros had simply meant that the system was looking at his sterling exposure – and his margin situation hadn't improved because of that. Mr P then claimed this meant that the trade was 'wrong', and asked Citibank to unwind it on that basis.

In my view, however, Citibank had already explained to Mr P that there was nothing wrong with the trade or the information he was given – but the size of the positions he had remaining on his account as well as the prevailing market conditions at the time, didn't allow him to reduce his overall margin requirement in the way he had previously done. Although I understand why Mr P continues to disagree with this – in my view there's nothing I can meaningfully add to the evidence and detailed explanations he has already been given about this particular trade. I'm satisfied he instructed Citibank to carry out a trade on the basis that he needed to reduce his margin requirement – but given the way his other trades were going, this did not have the intended effect. I'm not persuaded that's something Citibank was required to warn him of, nor is it something it could've avoided for him.

Ultimately, as I've said above, the situation with Ms D's account on the day was extremely difficult and constantly evolving – and I'm satisfied that evidence shows that Citibank treated Ms D fairly.

Best execution on 20 March 2020

The crux of Ms D's complaint remains the eventual closure of her positions on 20 March 2020, and the prices she received for the options. Here too, I'm sorry to say that I'm not persuaded by her claims that Citibank has failed to produce evidence of the prices it received.

I should say first of all that Citibank's attempts at obtaining quotes are set out in the calls Mr P had with it when this was being discussed – and it's very obvious that it was an exceedingly difficult situation to trade in.

I also previously set out in my provisional decision what Citibank's responsibilities were when executing the trades on Ms D's behalf – and the fact that the size of her positions, and the timing of the trades, were all relevant factors that would impact the price she would receive.

Ms D has continued to dispute Citibank's evidence that it contacted five banks to obtain prices – but I'm not persuaded by her submissions. I'm satisfied I've seen sufficient evidence to show that Citibank did in fact reach out as it said, and received only one price in return. And I've also now seen confirmation of the price and the trades that were placed – although I understand Ms D disputes the authenticity of this evidence, I'm not persuaded there's sufficient evidence for me to do so. In my view, Citibank has produced sufficient evidence to show that it approached a number of liquidity providers on the evening of 20 March 2020, in one of the most difficult trading periods in recent history, and obtained the best possible price available to Citibank at the time for Ms D before executing her trades.

I also remain convinced that Citibank did not have the ability or the right to second guess this quote at that moment in time. Mr P had instructed it to go ahead with the trades – and if it had declined to execute the trades, it would've likely been liable for any further losses should the markets have continued to move against Ms D's trades.

In providing Ms D with best execution, Citibank was required to take all reasonable steps to ensure she got the best possible result. In the particular circumstances of Ms D's case, when weighing up all the relevant criteria, and in particular the likelihood of execution given that this was the only price available at the time, I'm satisfied Citibank took all reasonable steps to achieve the best overall result for Ms D.

The fact that there were limited options available at that moment in time isn't something that I can hold Citibank responsible for. The size of Ms D's unrealised losses meant that Citibank was required to take immediate action, and I don't consider it unreasonable that it therefore prioritised speed and likelihood of execution in order to reduce Ms D's market exposure under such challenging market conditions. I'm also persuaded that the size of her positions was such that being able to find liquidity would've been challenging even under normal market conditions – which I accept these weren't.

I'm sorry that Ms D doesn't accept my conclusions on this issue, and will likely continue to profoundly disagree with my findings. However, I have reached them after a careful consideration of all the evidence available to me. Based on everything I said in my provisional decision and in this final decision, I'm satisfied Citibank has acted fairly and reasonably and isn't required to pay Ms D any compensation. I therefore don't uphold this complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 20 February 2024.

Alessandro Pulzone
Ombudsman