

The complaint

Mr I complains that Admiral Markets UK Ltd failed to notify him when his Contracts for Difference (CFD) portfolio depreciated by more than 10%. He said that this was a regulatory requirement and caused him a financial loss.

What happened

Mr I complained to Admiral Markets that between 2019 to 2021, it never notified him when his portfolio depreciated by more than 10%. He said the relevant rules in COBS16A.4.3 and guidance by the European Securities and Markets Authority (ESMA) meant that:

- a) Admiral Markets was holding his client account; and
- b) That his portfolio included contingent liability transactions, such as CFDs, which meant special reporting rules applied.

Admiral Markets looked into his complaint, but didn't agree. It said that rule only applied to Portfolio Management firms, which is not the service it was providing to him. It said it was a market execution firm, and therefore this reporting rule didn't apply.

Mr I didn't agree and asked this service to look into the matter. One of our investigators looked into his concerns, but also didn't think his complaint should be upheld.

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

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.

I should explain to Mr I that my role in looking at his complaint is to decide what's fair and reasonable in the circumstances. It isn't to punish a business if it hasn't complied with a rule, nor is it to enforce a rule or take any regulatory action – that is for the Financial Conduct Authority (FCA).

This means that even if I agreed that Admiral Markets didn't technically comply with the 10% reporting rule he refers to, it wouldn't automatically follow that I'd just award the £6,000 compensation Mr I has asked for. I'd need to consider what other information Mr I had, his responsibilities in managing his account and whether or not this failing did, on the balance of probabilities, mean that Mr I sustained losses that he otherwise wouldn't have.

There's no dispute that Mr I had some experience trading CFDs when he opened his account with Admiral Markets, and I can see that he answered the 'knowledge' questions correctly – so the account was appropriate for him, and he understood the risks of significant capital loss inherent in trading CFDs.

There's no dispute that Mr I was trading as an execution only client – this meant that Admiral Markets was not responsible for advising him or managing his positions. He alone was

responsible for deciding how much money to deposit, when to open trades, on what markets, and when to close them.

And it's also not in dispute that Mr I *did* receive regular statements outlining the actions on his account, including updated profit and loss for each individual trade as well as his account overall. Although I haven't seen a screenshot of it, it's likely he also had access to an online platform of some kind which allowed him to see, in real time, how his trades were performing as well as any realised losses.

Whilst I agree that receiving a notification at some stage that his portfolio had depreciated by 10% would've been helpful (assuming this was a requirement – and I'm not making this finding), I'm not persuaded on balance that there's sufficient evidence that this would've made any difference to the way Mr I traded. In looking at his statement, I'm satisfied it was already apparent to him, throughout the life of his account, that he was sustaining significant losses – and this did not make him trade any differently as far as I can see.

Furthermore, this rule, even if I agreed that it applied, would not remove his own responsibility for managing his account and for ensuring he was aware of how it was performing. In other words, the losses he is claiming are not in fact due to something Admiral Markets did or didn't do – they are due to his own trading decisions, and the financial consequences of those.

Given everything I've said above, I'm not persuaded it would be fair and reasonable to conclude that these losses were caused by Admiral Markets, even if I agreed that it should've been reporting in the way COBS16A.4.3 62(2) sets out.

My final decision

For the reasons I've given, I don't uphold Mr I's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 4 January 2024.

Alessandro Pulzone
Ombudsman