

The complaint

Mr A complains that Interactive Brokers (UK) Limited ('IBL') exercised two of his options contracts without his consent, causing a financial loss. In addition, Mr A also complains that IBL's system is sometimes slow, impacting his ability to either open or close positions.

Mr A would now like IBL to restore his account balance to the position it was in prior to them exercising his options and recompense him for the trouble and upset that they've caused.

What happened

In October 2020, Mr A opened a contract for difference (CFD) account with IBL.

On 30 November 2022 at 11:57 (ET), Mr A opened a position for two 'Long GC 30NOV22 1760 P FOP' at a price of 0.20. Later that day, at 13:29 (ET), IBL issued a potential violation alert to Mr A. At 17:15 (ET), the two 'Long GC 30NOV22 1760 P FOP' contracts expired 'in the money' and had a settlement price of 1759.90. These were assigned against GC 24FEB23 futures and his other 30NOV22 FOPs expired, worthless. By the end of 30 November 2022, Mr A's IBL account had a net liquidation value of \$2,748.

The next day, at 01:12 (ET), the expiration and assignment of Mr A's contracts were processed. The expiration of the contract at 01:12 (ET) caused a margin violation and as a consequence, IBL sent Mr A a number of notices highlighting that his account was at risk of liquidation and that he needed to take action. As Mr A didn't take any action to address the margin non-compliance, IBL liquidated a number of his positions. They did so again on both 2 and 4 December 2022.

Shortly afterwards, Mr A decided to formally complain to IBL. In summary, he said that he was unhappy that his options contracts had been exercised without his permission. After reviewing Mr A's complaint, IBL concluded they were satisfied they'd done nothing wrong. They also said, in summary, that given his two long positions were 'in the money', they were automatically exercised. In addition, IBL explained that he had been informed in advance about the closure but failed to maintain sufficient margin.

Mr A was unhappy with IBL's response, so he referred his complaint to this service. In summary, he repeated his concerns, namely that IBL had exercised his options without his consent. In addition, he went on to say that as his account had less than £3,000 in it, given their margin requirements for that trade were \$32,000, they shouldn't have actioned the transaction. Finally, Mr A also stated that he had found IBL's system to be glitchy when trading.

The complaint was then considered by one of our Investigators. He concluded that IBL hadn't treated Mr A unfairly and from what he'd seen, the positions were closed in line with IBL's terms and conditions, in particular section 9, that covers their margin policy. In addition, he also stated that he'd been presented with no evidence to demonstrate that there was a problem with IBL's site.

Mr A, however, disagreed with our Investigator's findings. In summary, he said that he wasn't dissatisfied that IBL had closed his positions and that IBL shouldn't have opened the positions in the first place by exercising his options without his consent.

Our Investigator was not persuaded to change his view as he didn't believe Mr A had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mr A then asked the Investigator to pass the case to an Ombudsman for a decision.

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 have summarised this complaint in less detail than Mr A has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. Instead, I will focus on what I find to be the key issue here, which is whether IBL acted unfairly by opening and closing out Mr A's positions.

My role is to consider the evidence presented by Mr A and IBL in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr A's complaint - I'll explain why below.

In his complaint to this service, Mr A said that he believed *'an option gives the holder the right, but not the obligation, to buy the underlying security at the strike price on or before expiration. And if the options are in the money they can be settled in cash'*. Mr A then went on to explain that IBL had *'exercised two of the options I held in my account without my consent'*. However, since Mr A's long 1760 put expired 'in the money', the Chicago Mercantile Exchange (CME) exercised the option. The CME take this action to protect the consumer and it isn't something that IBL has discretion over as it's an exchange rule. Had Mr A *not* wished for his options to be exercised, he'd have needed to have acted prior to the expiration of the instrument. Had Mr A's put expired 'out of the money', it wouldn't have been exercised.

Mr A says that when he logged into IBL's system, there wasn't any buttons that gave him the choice of either rolling over or lapsing his investment. Whilst I've not been provided with any evidence to suggest that there was a problem with IBL's portal in the run-up to Mr A's investments expiring, from what I've seen on their website, IBL offer a telephone helpline and a webchat function where clients can speak to an operative 24 hours a day. So, it seems that if there was a problem with the functionality of providing instructions on what Mr A wanted to do with his investments, IBL were available had he reached out to them.

There's no dispute that Mr A was trading as an execution only client – this meant IBL 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 and on what markets, monitoring those positions, and when to close them. So, this means that IBL were not

responsible for keeping him abreast of when his positions may close out because they'd reached expiration or because of certain market events – that responsibility rested with him.

And, it seems that in advance of Mr A's positions expiring, IBL's system provided him with the opportunity to monitor his margin exposure on their platform. From what I've seen, the projected margin excess is displayed as 'post-expiry margin' which if negative and highlighted in red, indicates that the account is in margin violation and may be subject to forced position liquidations. IBL say that the exposure calculation is performed three days prior to the next expiration and is updated every 15 minutes so it would seem that Mr A had the information available to him to help shape his decision making and could, had he wished, taken action.

I'm satisfied that margin expectation is covered in IBL's customer agreement that Mr A was provided a copy with at the time he opened his account. It therefore seems very clear to me that given the agreement that Mr A entered in to with IBL, he alone was responsible for regularly checking his positions and ensuring that he had adequate funds in his account to ensure IBL didn't close out his positions. Despite IBL having no obligation to forewarn Mr A that his trades were likely to be liquidated, they contacted him on a number of occasions to flag that he needed to take action, but he chose not to. I therefore can't conclude that Mr A was treated unfairly when IBL closed his positions.

When Mr A's account failed to maintain margin compliance, from what I've seen of IBL's customer agreement, they had the discretion to decide how best to manage the account in order to try and bring it back into margin compliance. I've looked closely at IBL's margin policy; it states that they will *'liquidate positions in your account in order to satisfy margin requirements without prior notice to you and without an opportunity for you to choose the position to be liquidated or the timing or order of liquidation'*. In addition, it also goes on to say that: *'You are not entitled to choose which securities or futures contracts or other assets in your account(s) are liquidated or sold to meet a margin call. IB has the right to decide which positions to sell in order to protect its interests'*.

So, whilst Mr A may be of the view that IBL unfairly liquidated investments for which he didn't have sufficient margin to have opened in the first place, they retained the right to do so to try and limit both of their respective exposure and to bring his account back into compliance.

In his complaint to this service, Mr A has also complained that IBL's system is sometimes slow, impacting his ability to either open or close positions. However, it seems that this issue wasn't raised in his original complaint to IBL so before I could consider Mr A's concerns about this particular issue, he would first need to provide IBL with an opportunity to respond to his concerns. In any event, Mr A hasn't provided any evidence related to this specific point, so I won't comment on it any further.

My final decision

I'm not upholding Mr A's complaint and as such, I won't be instructing Interactive Brokers (UK) Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 31 July 2024.

Simon Fox
Ombudsman