

The complaint

Mr S complains that Saxo Capital Markets UK Limited failed to notify him that that one of his foreign currency sub accounts was overdrawn. He went on to say that Saxo had not been clear with him that interest was being applied to that negative balance.

Mr S would like Saxo to refund the interest that they have charged him.

What happened

In early 2023, Mr S learned that one the foreign currency sub accounts within his trading account had a negative balance, and as such, Saxo had been charging him interest on the outstanding balance.

Shortly afterwards, Mr S decided to formally complain to Saxo. In summary, he said that he wasn't aware that the account was in deficit and had he known, he could have remedied the situation and avoided paying interest charges. He felt that Saxo should have informed him about the negative balance and asked Saxo to reimburse the interest charges that they'd levied.

After reviewing Mr S's complaint, Saxo concluded they were satisfied they'd done nothing wrong. They also said, in summary, that as an execution only provider, it was Mr S's responsibility to keep abreast of what was happening with his account. Saxo referred to their terms and conditions, which highlighted that they weren't under any obligation to send alerts to Mr S about the position of his account, and that monitoring of his funds was his responsibility. In addition, Saxo also provided clarification about how interest had accumulated on Mr S's account and explained that the costs they had levied were in line with the charges schedule which Mr S had been provided a copy of when he opened his account.

Mr S was unhappy with Saxo's response, so he referred his complaint to this service. In summary, he said that he was unhappy Saxo had failed to notify him that one of his sub accounts was overdrawn. Mr S went on to say that he didn't feel Saxo had been transparent in their dealings with him because it wasn't immediately obvious when looking online that one of his sub accounts had either a negative balance or was subject to interest charges.

The complaint was then considered by one of our Investigators. He concluded that Saxo hadn't treated Mr S unfairly because their terms, which Mr S had been provided a copy of, were clear.

Mr S, however, disagreed with our Investigator's findings. In summary, he said that he didn't feel it was easy to know that Saxo were applying the charges. He went on to explain that he didn't object to Saxo's terms and conditions or how they calculate interest but more specifically, that he wasn't made aware that interest was building up because their website wasn't clear.

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

After carefully considering the complaint, I issued a provisional decision on the case as, whilst I was of the view that the complaint shouldn't be upheld, I reached that conclusion for wider reasons to that of our Investigator and as such, I wanted to give both parties the opportunity to respond.

What I said in my provisional decision:

I have summarised this complaint in less detail than Mr S 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 Saxo did enough to make Mr S aware of the fact that he had a negative balance that was incurring interest charges.

My role is to consider the evidence presented by Mr S and Saxo 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 S's complaint - I'll explain why below.

From what I've seen, Mr S's trading account is denominated in GBP and aside from a pound sterling account, he also holds Euro (EUR), Australian Dollars (AUD) and US Dollar (USD) sub accounts from which he uses to draw funds to trade from. And, it's the AUD sub account that Saxo have levied interest charges on because it had a negative balance. Mr S explained that he had no idea that he had a negative AUD balance and over the period from 19 April 2022 to 23 January 2023, Saxo charged him AUD\$1,378 in interest. He went on to say that, as he had a positive EUR balance, he could at any time have moved monies from that sub account to the AUD sub account to clear the negative balance and avoid those charges.

There's no dispute that Mr S was trading as an execution only client – this meant Saxo 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, despite what Mr S may have said in his complaint, Saxo were not responsible for overseeing his positions or contacting him if and when his account was at risk of going into deficit.

Having looked at the terms of Mr S's agreement with Saxo, it seems clear to me that it's the consumer's responsibility to ensure that they are fully aware of their account status and balance at all times – that means it's up to Mr S to check and not Saxo. I'm satisfied that this is covered in Saxo's terms and conditions.

Mr S electronically accepted Saxo's 'General Business Declarations' that included a number of different policies, which he confirmed that he had read and understood. I've looked closely at those documents, and I believe the following are most relevant to Mr S's complaint:

Risk Disclosure Notice

2.1.4 General - It is important to note that it is your responsibility to ensure that you continuously monitor your account at all times and that Saxo Markets is not obliged to provide you with any alert regarding failure to maintain margin on your account.

3.6 Need to Monitor Positions - It is important that you monitor all of your positions closely. It is your responsibility to monitor your positions and during the period that you have any open Contracts or Transactions, you should always have the ability to access your accounts.

General Business Terms

2.1 The Client acknowledges, recognises and understands that: 4) unless it is otherwise specifically agreed, Saxo Bank shall not conduct any continuous monitoring of the transactions entered into by the Client neither automatically nor manually. Hence, Saxo Bank cannot be held responsible for transactions developing differently from what the Client might have expected and/or to the disadvantage of the Client;

So, despite what Mr S says about Saxo not informing him of the position of one of his sub accounts, it seems evident to me that Saxo have made it clear that the onus is on him to keep abreast of his positions and associated balances within his account and take action where necessary. In light of this, I've gone on to consider whether Saxo's portal was sufficiently clear enough to allow Mr S to understand what was happening with his monies.

Mr S says that he only became aware Saxo were charging interest on his AUD balance in early 2023 and had he known sooner, he could've transferred monies from his EUR account to bring his AUD account into credit. He went on to say that it wasn't clear from Saxo's systems and statements that his AUD sub account was running a negative balance. However, I don't agree, and I'll explain why.

It seems that Saxo started charging interest on the AUD sub account from April 2022, but between that point and January 2023 (when Mr S complained), I've seen evidence that he logged into his Saxo account nearly 100 times. From the list that I've seen of each of the instances when Mr S logged into his account, he typically did so on a number of occasions each day and every month during that period with the exception of May 2022 (but he did log into his account at both the end of April and the beginning of June 2022).

That's relevant because Saxo apply interest to negative balances daily and then apply it at the start of each month. That interest is then reflected in both Mr S's summary and the detailed views of his online account, so each month the negative interest would have been increasing. I've seen various screenshots of Saxo's portal – when Mr S logged into his TraderGo account, he would've been presented with a balance overview of each of his different currency sub accounts, including his AUD sub account. That total provides the consumer with the value of their positions plus cash. Had Mr S then clicked on any of the respective currency sub accounts, it would have then taken him into a further screen that then separated out his cash and positions.

Mr S opened a position in an Australian stock in April 2022 using funds from his GBP account, which he then closed in June 2022; therefore, when Mr S initially signed into Saxo's portal, he would've been presented with a balance in his AUD sub account (which included the combined value of the negative interest and the value of the position), and, given the nature of the underlying investment, that value would alter daily. So, had Mr S clicked on the AUD sub account, he would've seen his position *and* the negative cash balance split out. It therefore seems clear to me that the information about the negative balance accruing in the

AUD sub account was readily available to Mr S and importantly, presented in a location that I consider most consumers would find easy to access.

Saxo have been unable to confirm if Mr S clicked through from the home screen and into the AUD sub-account screen, but in the absence of that insight, I'm satisfied that it would have been reasonably obvious that there was a negative balance on the account in the months that followed the Australian stock position closure. I say that because the AUD stock was transferred in June 2022, leaving just a negative cash balance. So, even if it wasn't immediately obvious prior to 8 June 2022 that there was a negative AUD balance when Mr S first signed into his account (because as I've already said, the first view he saw would've been the combined Australian stock and negative AUD balance), I'm satisfied that after the Australian stock position had been closed, it would've been evident that a negative AUD balance remained because at that point, there was only a cash position left. And, as I set out earlier, Mr S logged in to his account regularly so would've been presented with the balance of his AUD account at each point – which given the way that Saxo added interest, would've increased each month.

It therefore seems to me that, in light of the number of occasions that Mr S logged into Saxo's portal, he missed a number of opportunities to spot the problem sooner and as I've already explained, it was his responsibility to monitor the account, not Saxo's.

In their complaint response to Mr S, Saxo provided a detailed explanation of how his account worked and importantly, why interest had started to accrue despite having funds in his EUR and USD sub accounts. Saxo say that clients are required to have a positive account value in each account, and a positive net free equity on the main trading account at all times. Saxo went on to say that interest is charged despite having an overall positive cash balance if there is a deficit in any of the customer's accounts. For completeness, I've looked at Saxo's Commissions, Charges & Margin Schedule and I'm satisfied they've explained how they'll apply those charges in section 21.3: "*The client is obliged to pay interest on the basis of their negative Net Free Equity in accordance with the terms on the Website*". But in any event, Mr S says that he doesn't disagree with how Saxo apply those costs.

But, just because Mr S didn't appreciate the impact of that at the time, it doesn't necessarily follow that Saxo have done anything wrong and that's because, as I've already explained, Mr S was trading as an execution only consumer and therefore, should have been aware of the positions on each of his sub accounts. And, I think that had he looked more closely at his statements and portal, he would've seen the AUD sub account balance and the fact that he needed to take action.

In his correspondence with this service, Mr S also explained that he was unhappy about the interest rate provided on his credit balances compared to the rate applied on his debit balance. As Mr S didn't raise this specific point in his complaint to Saxo, if he remains concerned about this particular issue, he must first raise the issue with Saxo to allow them the opportunity to respond. Only then can this service consider a complaint about that particular issue.

I've not seen any evidence to persuade me that Saxo have applied interest charges inaccurately to Mr S's account, so I can't conclude that he has been treated unfairly on this point either.

Responses to my provisional decision:

Saxo responded to my provisional decision explaining that they had nothing further to add. Mr S didn't provide any further comment.

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.

As neither party have provided any new evidence to make me change my mind, it therefore follows that I have reached the same decision for the same reasons that I set out above.

My final decision

I'm not upholding Mr S's complaint and as such, I won't be instructing Saxo Capital Markets UK Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 June 2024.

Simon Fox
Ombudsman