

The complaint

Mr M's main complaint about eToro (UK) Ltd is that it refused to refund money he lost as a result of fraud. He's also questioned its subsequent decision to close his account.

What happened

Sadly, Mr M fell victim to a cruel investment scam in July 2023. Following discussions with people he met online in a WhatsApp group, he was encouraged to invest in cryptocurrency on a trading platform that turned out to be fake.

Mr M already held a trading account with eToro that he used to purchase cryptocurrency that was then transferred to a wallet outside of eToro controlled by the scammers. The investment was principally funded by two transactions for £10,000 and £20,000 that he transferred from a separate bank account for this purpose.

Since the scam was reported, eToro has taken action to close Mr M's account. It gave the reason that he hadn't replied to requests for information.

Our investigator didn't recommend the complaint be upheld. In short, he didn't think eToro should have viewed the activity related to the scam as suspicious or made an intervention that might have prevented it. He also felt eToro was entitled to close Mr M's account when it did.

Mr M didn't accept this outcome. He still feels eToro should have taken action that would have prevented the scam and remains dissatisfied with the decision to close his account. He requested a decision from an ombudsman and the complaint has been referred to me for review.

Mr M referred a separate complaint to us against the bank from which the £10,000 and £20,000 transfers originated. Since the correspondence between Mr M and our investigator described above, that complaint was upheld and these amounts were refunded in full with interest to the date of settlement

Since we issued our decision on his complaint about the bank, Mr M has contacted us to clarify the reasons he still thinks this complaint should be upheld. He emphasised that this complaint concerns what he sees as eToro's failure to protect its customer and its decision to close his account rather than take responsibility for its actions and attempt to resolve the situation. He pointed out that he was forced to close the open positions on his account, which he says have more than tripled in value since – gains that he hasn't benefitted from.

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 haven't necessarily commented on every single point raised but concentrated instead on the issues I believe are central to the outcome of the complaint. This is consistent with our

established role as an informal alternative to the courts. In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and what I consider was good industry practice at the time.

I think it's also relevant to explain that the Financial Ombudsman Service is not the industry regulator and we don't write the rules for financial businesses or have powers to fine or punish businesses where these aren't followed. This is the role of the Financial Conduct Authority (FCA). Our role is instead to consider individual disputes and reach what we believe is a fair and reasonable conclusion in the specific circumstances of each case. And where we make an award, our principal aim is to address any financial loss and return the customer to the position they'd now be in but for the errors made by the business.

In broad terms, the starting position at law is that an Electronic Money Institution (EMI) such as eToro is expected to process transactions a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of their account. In this context, '*authorised*' essentially means the customer gave the business an instruction to make a transaction on their account. In other words, they knew that money was leaving their account, irrespective of where that money actually went.

In this case, there's no dispute that Mr M authorised the relevant transactions.

There are, however, some situations where we believe a business, taking into account relevant rules, codes and best practice standards, shouldn't have taken its customer's authorisation instruction at 'face value' – or should have looked at the wider circumstances surrounding the transaction before processing it.

eToro also has a duty to exercise reasonable skill and care, pay due regard to the interests of its customers and to follow good industry practice to keep customers' accounts safe. This includes identifying vulnerable consumers who may be particularly susceptible to scams and looking out for transactions that might indicate the consumer is at risk of financial harm.

Taking these things into account, I need to decide whether eToro acted fairly and reasonably in its dealings with Mr M.

The transactions

Having considered what eToro knew about the transactions at the time it received Mr M's instructions, I don't think there were sufficient grounds for it to think that he was at risk of financial harm from fraud. So, I can't say it was at fault for following those instructions.

One of the key features of an eToro account is that it facilitates conversions to and transfers of cryptocurrency, often involving large sums. So the transactions authorised by Mr M were in keeping with the purpose of the account and weren't something that I believe eToro should have viewed with any particular suspicion. In saying this, I'm conscious that Mr M's account history showed he had invested in a number of different cryptocurrencies previously. Although the amounts involved in the scam were much larger, his actions in July 2023 don't necessarily appear unusual or out of character compared to his previous activity. I'm also mindful that the number of transactions associated with the scam was limited and no pattern was established that could have been considered consistent with ongoing fraudulent activity.

I appreciate Mr M may disagree with this assessment but I don't agree that eToro should have paused the transactions due to concerns over potential fraud. But even if I did, this would be unlikely to lead to any significant compensation in view of the compensation already awarded against the bank.

The account closure

In its response to his complaint, eToro said the closure of Mr M's account was unrelated to the scam. It says it took this decision after it didn't receive information requested from him. It's provided copies of an email from July 2023 requesting information - a bank statement and an explanation of his trading strategy – and another confirming this information was outstanding. It was after this, in August 2023, that eToro then wrote to Mr M to give notice that the account was being closed. I understand Mr M was able to close off his open positions before the account closure and withdraw his funds.

I appreciate Mr M was dissatisfied with the decision to close his account, but I've reviewed the terms and conditions carefully and I'm satisfied eToro was entitled to take this action. Section 26.4 of the account terms and conditions provided states:

We may also freeze, block, or terminate our Services and/or your eToro account if:

- a) we decide to stop providing you with Services; [or]*
- b) we require you to provide us with information under clause 12 – “How to open, and maintain your eToro account”, and/or clause 38 – “Regulatory reporting”, to enable us to comply with your obligations under Applicable Law and/or internal procedures, and you cannot or do not provide us with the information, or the information you provide us with is inaccurate, incomplete or misleading*

These terms give eToro a wide scope to close a customer's account. It says Mr M's account was closed under clause (b) above and I've seen nothing to show that he did provide the information that was requested. But even if he had done, eToro would still have been entitled to take this action under clause (a).

At the time the account was closed, neither eToro nor Mr M could reasonably have been expected to foresee whether the positions he held would go on to make a profit or a loss if they remained open. But if Mr M wanted to continue with those investments, I'm not aware of anything that prevented him opening a similar account elsewhere and reinvesting the money returned from the eToro account to ensure he benefitted from any positive price movements.

In conclusion

It's for these reasons that I'm not upholding this complaint. I realise this outcome will be disappointing for Mr M, but I'm satisfied it's fair and reasonable in the circumstances.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 March 2025.

James Biles
Ombudsman