

## The complaint

Miss J complains that Lloyds Bank PLC unreasonably closed her bank account, and registered a marker against her with the fraud prevention agency Cifas. She'd like this marker to be removed.

## What happened

Miss J held a personal account with Lloyds. But in October 2021 they wrote to her to say they would be closing her account in 61 days' time. The accounts then closed in January 2022.

In 2023 Miss J discovered that Lloyds had recorded a marker against her with the fraud prevention agency Cifas, for a misuse of facility. She complained to Lloyds, but the bank didn't think they'd done anything wrong, and didn't offer to remove the marker.

Unhappy with this Miss J referred the complaint to our service. One of our investigators looked into what happened but didn't think Lloyds had shown they had enough information that Miss J was involved in fraud or financial crime to record a marker with Cifas. They suggested they remove the marker and pay her £100 compensation.

Lloyds disagreed and submitted further information about the activity on Miss J's account before they closed it. They said she had received funds that had later been recalled by the senders on the grounds that they had been sent as the result of a fraud. Miss J thought the compensation offered didn't reflect the impact on her.

As no agreement could be reached the complaint was passed to me to decide. After review I issued my provisional decision, which said:

*Cifas have rules and principles around what can be recorded on their national fraud database. There's no need for me to detail these in full here, but broadly before a bank can record a marker on the database, they need to have carried out sufficient checks to satisfy themselves that fraud or financial crime has been committed, and that there are reasonable grounds to believe Miss J was complicit or aware of this.*

*Here, I can see from the account history that Miss J's account was receiving funds with a reference to a cryptocurrency investment scheme that is now widely acknowledged to have been a scam. The founders of the scheme have plead guilty to fraud and been imprisoned. And I can see that the Financial Conduct Authority issued a warning about this particular scheme in March 2021.*

*It is not in dispute that these funds were sent to Miss J as a result of this scam perpetrated by the founders. What remains in dispute is whether Miss J was or ought to have been aware of the fraud when she received payments into her account and moved them on. When Miss J has discussed what happened with our service, she said she was involved in a "multi-level marketing" investment scheme. I think this is consistent with the scheme being described as a Ponzi or pyramid scheme.*

*The way the 'investment' scheme seemed to be explained was that one party is brought into the scheme, and then encouraged to recruit others to also invest. But here the underlying scheme was fraudulent, and so there wasn't a realistic prospect of returns.*

*Much of the funds Miss J's account received were then passed on to a cryptocurrency exchange. When asked about her role in receiving these funds and moving them on, Miss J commented that she received funds from people who either couldn't access the exchange or didn't know how to use it. So, she did it on their behalf.*

*Lloyds have indicated that several of the payments Miss J received, from different senders, have now been reported as fraudulent. This is in line with the senders not receiving expected returns from the cryptocurrency investment scheme.*

*Miss J has also told us that she initially got involved as an investor, but that she then ran this as a business. Although the account she held with Lloyds was a personal account, and not intended to be used for business purposes. But if she was holding herself out as a business, then it would also be reasonable to expect her to have conducted some due diligence on the investments she was involved in. This ought reasonably to have led her to the warning from the Financial Conduct Authority from March 2021.*

*Her account continued to receive funds after this. Between March 2021 and October 2021 there are over 30 transactions that make reference to the fraudulent fund, membership, or cryptocurrency. There are many more which don't have a reference but seem to be related, as they are shortly followed by transfers to cryptocurrency exchanges, or payment services.*

*The values of many of these payments aren't trivial – for example £2,000 paid on 26 April 2021, £2,920 on 10 June 2021. One of the payments later reported as fraudulent was for over £3,600. Given the volume and value of the transactions involved it's not unreasonable to expect Miss J to have done some research in to the scheme. I'm not persuaded that Miss J was completely unaware that the funds she was receiving were for a potential scam.*

*I can see there are points where funds are received, but Miss J retains some funds in part or in full, from the amount that was passed on to the cryptocurrency exchange. So, it's clear Miss J was profiting from this exchange.*

*We have attempted to ask further questions from Miss J about the receipt of these funds, and their subsequent use, but we have not received a response.*

*Based on the evidence available to me I'm satisfied that Miss J's account was used to receive funds which were then used to facilitate a fraudulent investment scheme. Miss J has been complicit in allowing these funds to enter the scheme and has benefited from this. On that basis, I don't see that's unreasonable Lloyds have recorded a marker with Cifas.*

*Miss J responded to say that she had acted in good faith and had no knowledge of any fraudulent activity connected to the cryptocurrency scheme. She said she had no expertise in investment schemes, so wouldn't have found the FCA warning. She said she did not benefit beyond basic reimbursements and costs and said the impact of the Cifas marker was disproportionate to the evidence of her involvement in any fraudulent activity.*

*Lloyds offered no further comments.*

*The case has now been passed to me to consider the evidence afresh.*

## **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.

Miss J has said she had been attempting to get information from Lloyds in relation to this. But when we asked what specific information she required, the answers were not clear, or they related to the impact of the Cifas marker. I'm satisfied that both parties in this case have had appropriate opportunity to present further evidence after the provisional decision, and that we have enough information on file to reach a fair outcome.

Having rereviewed the evidence and considered Miss J's additional comments, I remain satisfied with the conclusions reached in the provisional decision.

I'm satisfied that the starting position here is that Miss J's account received funds in relation to a fraudulent investment scheme, and she has passed them on. And I'm satisfied that Lloyds have received reports from numerous people who paid her, asking for the funds to be returned.

Miss J's position is that she was unaware of the fraudulent nature of the scheme and was only caught up in the scheme as an individual. But this is at odds with the fact she held herself out to others as a business. She's said to our service in that she introduced people in to the "business opportunity" and accepted payments on their behalf. She's also commented about having a big team and being a leader in the scheme.

I'm aware that these are common terms associated with multi-level marketing schemes. And there's no indication here that Miss J was ultimately leading this fraudulent scheme, or closely connected with the founder of the scheme. But I think this shows that her role was more than that of just an individual.

I see that it's reasonable to expect Miss J, who was actively engaged in recruiting others and handling funds on their behalf to have carried out a degree of due diligence into the scheme. And this would reasonably have led her to the warnings by the industry regulator. Particularly considering the volume and value of transactions she was receiving – as highlighted in the provisional decision. So, I think Miss J ought reasonably to have been conscious that the funds she was receiving weren't going to a legitimate investment.

Miss J has also said she didn't benefit from the funds paid in beyond expenses. As mentioned in the provisional decision I can see from the account statements there are certain payments into the account referencing the fraudulent scheme that don't appear to have a corresponding transaction to a cryptocurrency exchange.

Even if I accept that these funds could have added to an exchange from a separate account Miss J has said to our service that you can create "additional income" by introducing others – and this is a key feature of multi-level marketing. I'm not persuaded that Miss J received little to no benefit at all from the funds she passed through her account.

I remain satisfied that Miss J's account with Lloyds was used for the receipt of funds that were used to facilitate a fraudulent investment scheme. Miss J has willingly passed these on and benefited from this. On that basis I'm satisfied it's reasonable for Lloyds to have recorded a marker with Cifas. I don't doubt what Miss J has said about the marker being disruptive to her, but I'm satisfied Lloyds actions are in line with the rules and principles Cifas have in place. That's not unreasonable.

**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 Miss J to accept or reject my decision before 27 February 2025.

Thom Bennett  
**Ombudsman**