

The complaint

Miss S complains that Kroo Bank Limited (Kroo) registered a Cifas marker against her without due cause.

What happened

On 16 March 2024 an account was opened with Kroo in Miss S's name.

On 22 March Kroo said it received a report from another bank regarding a disputed incoming payment of £120. It contacted Miss S via the in-app messaging system and asked for evidence of her entitlement to the funds or communication with the sender.

On 25 March Kroo said it received a further report disputing another incoming payment of £100. It again contacted Miss S via the in-app messaging system, asking for evidence of her entitlement to the funds or communication with the sender.

Kroo received no response, so on 10 May it closed the account with immediate effect. It also loaded a negative fraud marker against her on a National Fraud Database.

At the beginning of July 2024 Miss S contacted Kroo to complain. She'd become aware of the Cifas Marker after having another bank account closed and an application for a new account declined. She told Kroo the account had been opened without her knowledge.

Kroo didn't uphold the complaint and so Miss S brought her concerns to our Service.

Miss S told our Investigator that at the beginning of 2024 she joined an introducer group via social media and was sent a message with an offer to receive a small fee for opening an account. She said she naively agreed and sent her driving license details to the person. She later received a bank card through the post but never received any further correspondence and forgot about the account. She said the introducer must have used her identification document (ID) and then given their email and mobile number to access the account via the app. She later said that the email address used on the account was not hers.

We asked Miss S for evidence of conversations with the person, but she said she must have deleted them. She confirmed she still had the bank card.

Kroo told us Miss S had raised her complaint using the same mobile number the Kroo account was registered with. It provided a picture of the ID used as part of the application and a video that was also submitted showing the person featured on that ID verifying themselves.

Our Investigator didn't uphold the complaint. They said the evidence they'd seen persuaded them Miss S had opened the account and not someone else. They felt Miss S's testimony had been inconsistent and that she hadn't provided any evidence to support her version of events. They also noted that even if they were persuaded by Miss S's testimony, willingly providing her information so that someone else could open an account in her name is also fraudulent activity.

Miss S disagreed with their outcome and so the complaint was passed to me to decide.

I highlighted to Miss S that her testimony about sharing her driving licence to open the account didn't explain how her passport was submitted when the account was opened. I also queried how the fraudster managed to submit a video of her verifying her identity and why the mobile number registered on the account was hers.

Miss S said she gave her ID details to the person who opened the account and recorded the video at their request. She said she helped someone to open the account in her name so she could get cashback but was not involved in the account activity.

I issued a provisional decision on this complaint. In brief, I said that Kroo hadn't shown me evidence that it had reason to believe the funds received into Miss S's account were fraudulent. However, I wouldn't be directing Kroo to remove the Cifas marker as the evidence I'd seen indicated Miss S enabled another to fraudulently open an account in her name in exchange for the promise of a financial payment, knowing or suspecting this to be illegitimate activity.

Kroo provided no further representations. Miss S said she had nothing further to add but felt that no one was listening to her or believing her version of events. She emphasised that she was not involved in the fraud, it was the other person who set up the account and she said that she didn't receive the messages from Kroo when it queried the payments.

I'm now in a position to issue a final decision on this complaint.

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.

In Cifas' Handbook—which members must adhere to when loading markers—it sets out the burden of proof the member must meet. The relevant standards at the time of the loading were:

1. That there are reasonable grounds to believe that a fraud or financial crime has been committed or attempted.
2. That the evidence must be clear, relevant and rigorous.

In addition to the Handbook's burden of proof, Cifas released guidance to its members in March 2020 providing best practice guidance when filing markers against 'Money Mules' on the National Fraud Database. As Miss S had reportedly received fraudulent funds into her account held with Kroo, I find that the guidance is relevant in these circumstances.

The second part of the burden of proof requires more than mere suspicion of the consumer's willing involvement of the alleged activity to load them to the database. This is further supported by the 'Money Mule' guidance that sets out that *"You must have evidence to show that the consumer was aware that the payment they were receiving was, or might be from an illegitimate source."*

Broadly, it also highlights the need to consider evidence supplied by the consumer and says that contact should be made with them prior to deciding to load the marker. This is typically to establish if the consumer has themselves been victim to a fraud or has been duped into unwittingly laundering funds through their account.

Kroo hasn't provided a copy of either of the reports it received stating that the funds Miss S received were fraudulent. So, whilst it might have had legitimate reasons for having concerns over the origin of these funds, I have not seen any evidence of this. Which means I cannot fairly conclude that Kroo had sufficient evidence to show that fraud or a financial crime had been committed or attempted as it alleges. Which means I find that the loading of this marker for this reason was not fair.

That being said, I'm not going to ask Kroo to remove the Cifas marker – I'll explain why.

Miss S's testimony to our Service is that she was aware a bank account was being set up in her name by someone else and that she needed to share her ID documents and a video to enable this. So, she was enabling another person to open an account in her name, and this is also fraudulent activity. Whilst I acknowledge Miss S has said she thought this was a cashback incentive and not illegitimate, I don't find her testimony plausible. I think it's fair to say most people would understand that sharing your passport and driving licence with a stranger on social media to allow them to impersonate you and open an account isn't legitimate activity. But putting that aside for a moment, I also note Miss S is unable to provide any evidence to support her testimony of this contact from the fraudster via social media, which I find suspicious. In addition, Miss S's testimony to our Service initially was that she provided her driving licence to the fraudster. She didn't mention the video and suggested the fraudster used their contact telephone number. It was only when she was provided with Kroo's evidence, and questioned about the discrepancies, that Miss S said she had provided her passport and recorded a video. And I think this shift in her testimony makes it less persuasive. Which means I think it is more likely than not Miss S supported this individual to open this account, knowing this was illegitimate.

So, for all of these reasons, I think the evidence does indicate that Miss S was complicit in fraudulent activity. Whilst I am not persuaded there is sufficient evidence to show she received fraudulent funds, by her own admission, she enabled another individual to fraudulently open an account in her name in exchange for the promise of a financial payment. And for the reasons I've outlined above, I think the evidence indicates she knew or at least suspected this to be illegitimate activity. Given this, it follows that I feel the loading of a Cifas marker is fair.

I note that Miss S currently has what is called a category 6 marker loaded which is for a 'misuse of a facility'. Based on the evidence I've seen, I think a category 7 marker 'aiding and abetting' in combination with a category 1 'identity fraud' marker would be more appropriate. However, I note that the duration of these markers and the likely impact on Miss S is similar. And for that reason, I make no direction for Kroo to change the type of marker it has loaded unless it feels that it is appropriate that it do so after reviewing my decision.

My final decision

My final decision is that Kroo Bank Limited do not need to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 23 April 2025.

Jade Cunningham
Ombudsman