

The complaint

Mr B complains Kroo Bank Ltd (“Kroo”) incorrectly applied a fraud marker against him and closed his account.

Mr B says Kroo’s actions have caused him significant distress, financial hardship, and inconvenience. To put things right, Mr B wants the marker removed.

What happened

The details of this complaint are well known by both parties, so I won’t repeat them again here in detail. Instead, I’ll focus on setting out some of the key facts and on giving my reasons for my decision.

After receiving a fraud report, Kroo restricted Mr B’s account in February 2024. Kroo asked Mr B for proof of entitlement for some payments he’d received. Mr B sent information to Kroo to review. In April 2024, Kroo decided to close Mr B’s account with immediate effect.

Kroo also applied a CIFAS (Credit Industry Fraud Avoidance System) category six, ‘misuse of facility’, marker against Mr B. Mr B says he discovered Kroo had only done so in July 2024. Other external accounts Mr B held were subsequently closed or restricted.

Unhappy, Mr B complained. Kroo didn’t uphold his complaint saying it had closed the account in line with its terms, and that it had applied the marker correctly. Kroo signposted Mr B to CIFAS to make a complaint about the marker. CIFAS said it was satisfied Kroo had applied it appropriately and had enough information to make such a filing. Mr B referred his complaint to this service.

One of our Investigator’s then looked into Mr B’s complaint. They asked both parties for more information. As Kroo didn’t provide them with enough information, they recommended the complaint was upheld. They thought the marker should be removed and Mr B paid £250 compensation.

Kroo didn’t agree, and it sent more information about why it applied the marker. Our Investigator reviewed this information, and then said the complaint shouldn’t be upheld. In summary, their key findings were:

- Kroo reviewed Mr B’s account activity given it had received notification fraudulent funds had been paid into Mr B’s account. This was in line with Kroo’s obligations.
- Kroo asked Mr B for proof of entitlement evidence for two payments into his account which he had sent to another of his accounts. The evidence Mr B has provided of his entitlement isn’t enough and doesn’t show his entitlement.
- Kroo applied the marker in line with the standards its required to do so. The account was closed in line with the terms.

Mr B didn’t agree with what our Investigator said. The key points he made in response were:

- He isn't aware of what new evidence Kroo provided which led to the recommendation being changed. They should get an opportunity to respond to this new information.
- Kroo failed to properly engage with Mr B before applying the marker with CIFAS. He wasn't given sufficient opportunity to respond to Kroo as his account had been closed.

As there was no agreement, this complaint has been passed to me to decide.

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.

Having done so, I have decided not to uphold this complaint. I'll explain why.

CIFAS marker

Kroo say the marker it filed with CIFAS is intended to record there's been a 'misuse of facility' – relating to using the account to receive fraudulent funds. In order to file such a marker, Kroo is not required to prove beyond reasonable doubt Mr B is guilty of a fraud or financial crime, but it must show there are grounds for more than mere suspicion or concern.

CIFAS says:

- That there are reasonable grounds to believe that a Fraud or Financial Crime has been committed or attempted.
- That the evidence must be clear, relevant, and rigorous.

What this means in practice is that a financial business must first be able to show fraudulent funds have entered Mr B's account, whether they are retained or pass through the account. Having looked at the information Kroo has given me, I'm satisfied fraudulent funds entered Mr B's account.

Secondly, Kroo will need to have strong evidence to show the consumer was deliberately dishonest in receiving the fraudulent payments and knew it was, or might be, an illegitimate payment.

A marker shouldn't be registered against someone who was unwitting; there should be enough evidence to show deliberate complicity. So, I need to consider whether Kroo has enough evidence to meet the standard of proof and load a marker for a misuse of facility with CIFAS.

Having carefully considered the evidence I have, I'm persuaded Kroo has applied the marker fairly. I say that because the evidence Mr B has provided isn't sufficient to show his entitlement to the funds. From reviewing this information and that which Kroo has provided, I'm persuaded it's most likely Mr B knew, or might have known, the funds were illegitimate.

I know Mr B would want to know what information I have weighed to reach this outcome. But I am treating this information in confidence, which is a power afforded to me under the Dispute Resolution Rules (DISP), which form part of the Financial Conduct Authority's regulatory handbook.

Account closure

Kroo is entitled to close an account just as a customer may close an account with it. But before Kroo closes an account, it must do so in a way, which complies with the terms and conditions of the account. The terms and conditions of the account, which Kroo and Mr B had to comply with, say that it could close the account by giving him at least two months' notice. And in certain circumstances it can close an account immediately or with less notice.

Kroo closed Mr B's account with immediate effect. I'm satisfied from its explanation and the supporting information it's provided, that it did so in line with its terms and conditions.

As I don't think Kroo has done anything wrong in applying the CIFAS marker, and in closing Mr B's account, I see no basis in which to award compensation for any distress and inconvenience he's suffered. Nor am I directing it to remove the marker.

My final decision

For the reasons above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 April 2025.

Ketan Nagla

Ombudsman