

complaint

Mr C's account with Bank of Scotland plc (trading as Halifax) was the subject of fraudulent activity, which was identified by the bank. The account was closed and a misuse of facility marker was registered with the Credit Industry Fraud Avoidance System (CIFAS). Mr C complains that the CIFAS entry is preventing him from opening a new account and he seeks its removal.

background

Mr C lost his card for the account during a 7 day period. He says he did not notice the card was missing at that time and so did not report its loss to the bank. The fraudulent activity occurred at the end of this period and the account was subsequently closed. Mr C said that he was not involved in any way with this fraudulent activity.

Mr C wanted to open a new account six months later. His application to Halifax was declined because of the CIFAS entry. He made a complaint to Halifax, which was not upheld because the bank believed that it had not made a mistake. The complaint was then referred to the Financial Ombudsman Service.

Following our involvement, Halifax offered to remove any adverse information it had registered about Mr C and his account, but said that it would not be willing to open, within the Lloyds Banking Group, any further accounts for him. The bank added that Mr C should have reported the loss of his card.

Our adjudicator invited Mr C to consider the bank's offer, noting that the provision of banking facilities was a commercial decision in which we would not normally interfere, and that we would not be in a position to instruct Halifax to open a new account for him. But Mr C did not think the offer was fair and reasonable, because it implied that adverse information about him would be retained by the bank, in order to stop a new account being opened in his name.

In response, Halifax said that it was required to retain customer information for at least six years, in order to comply with anti-money laundering and taxation legislation. The bank would retain this information for six years, with an indicator to decline new account applications from Mr C.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I understand that, when Mr C declined its offer, Halifax initially decided not to take the actions needed to remove adverse information about Mr C, until I had made my decision. It later confirmed that it had taken the necessary actions and Mr C should now be able to open a new account at a bank outside the Lloyds Banking Group. I welcome this move, as I am satisfied that there should not be any adverse information recorded about Mr C concerning the above events.

I also sympathise with Mr C, who may feel he is being punished for being a victim of fraud. However, I find that it would not be appropriate to instruct Halifax to open a new account for him, for the same reasons as our adjudicator.

my final decision

My final decision is that I uphold this complaint in part. In full and final settlement of it, I order Bank of Scotland plc (trading as Halifax) to ensure that all adverse information it has registered about Mr C has been removed.

Roy Mawford
ombudsman