

complaint

Mr S's complaint against Metro Bank PLC (Metro) is that it's recorded a fraud prevention marker (CIFAS) against his name, and he can't open a new account.

background

In 2016, Mr S opened an account with Metro. In August 2017, fraudulent funds were received into this account, and then transferred on to further accounts he'd opened for himself, and then on to third parties. Over the period of a few days, funds were received and transferred, and on one occasion Mr S called Metro to try to retrieve funds. This is when he was told this couldn't be done.

Metro was concerned about this account activity, and believed Mr S may have been used as a money mule. In September 2017, it closed his accounts, and reported Mr S to CIFAS.

The following year, Mr S wanted to open a new account elsewhere, but when he couldn't do so he became aware of the CIFAS fraud marker against him. This was for the misuse of a facility in relation to a money mule, recorded by Metro in September 2017.

Mr S complained, saying he'd not been involved in any fraud, and hadn't given his account details to anyone else. But Metro still believed a fraud had taken place, and that Mr S had been involved. So it refused to remove the CIFAS marker.

Mr S didn't think this was fair, so brought his complaint to our service.

Our Investigator looked into matters, and concluded that Metro had complied with the Four Pillars Burden of Proof required by CIFAS, and that it was entitled not to agree to remove the marker.

Mr S still didn't agree. He explained, for the first time, that he'd been duped into a money-making scheme. This explanation was then given to Metro by our Investigator, but its view was that it remained a matter of fact that Mr S's account had been used to receive and transfer fraudulent funds, and that Mr S himself had been instrumental in this taking place. It also queried why, if Mr S truly believed he was innocent, he'd taken so long to query why his accounts had been closed and the marker added. So it wanted the CIFAS marker to remain, as it showed that it complied with its reporting duties.

As the parties couldn't agree, the complaint's come to me for a final decision.

my findings

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'm in agreement with our Investigator that we can't uphold it.

I appreciate this decision will be disappointing for Mr S, and I'd like to explain why I think it's fair, and the only one I can reach on the basis of the evidence.

My role is to carefully assess all the evidence, and then reach an outcome I think is fair to both parties. Mr S believes he's been unfairly treated, as he says he didn't commit, or

facilitate, fraud. And Metro says that it believes on the evidence that Mr S was involved, and that it's fulfilling its reporting duties in keeping the CIFAS marker in place.

In her view, our Investigator helpfully explained the high bar required by CIFAS to register a marker against a customer. It isn't something that's easily done. This is to protect people. She said:-

The bar for recording a CIFAS marker is a high one. The bank must have a good reason to believe it could have suffered a loss and/or reasonably believe it had grounds to press criminal charges as a result of the activity on the account. This should be more than just a suspicion or concern.

It follows that the bank must have carried out sufficient checks to satisfy this requirement.

Given the impact of a CIFAS marker can have on someone, the bank is expected to keep a record of these checks so it can evidence the decision it reached to record the CIFAS marker.

I've listened to what Metro's had to say on this, and I've seen the checks its done. I think the evidence, cumulatively, does suggest that Mr S was involved in a misuse of facility as a money mule, and that as such Metro did meet the Four Pillars Burden of Proof required to load the CIFAS marker. I say this because I think it's reasonable to believe it was he who called Metro to try to reverse a payment, and there's nobody else who could have had all the personal and security information needed to access his accounts and carry out the transactions.

As such, I think what Metro's done is fair, and I'm not going to ask it to remove the marker.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 July 2020.

Ashley More
ombudsman