

The complaint

Mr L complains that eToro (UK) Ltd allowed a fraudster to access his contracts for difference (CFD) trading account and then withdraw monies to which they weren't entitled.

Mr L would now like eToro to refund the c\$1,400, which the fraudsters withdrew along with recompensing him for the investment losses which he says have occurred because of his trades being encashed by them.

What happened

In November 2022, an individual(s) gained unauthorised access to Mr L's CFD trading account. On 10 November 2022, the individual(s) closed three of Mr L's XRP positions and then opened and closed a gold position shortly afterwards. The same day, a withdrawal request of \$900 was made and then a further withdrawal request of \$535 was made on 14 November 2022. The fraudster requested those monies be sent to a Wirecard account in Mr L's name.

On 16 November 2022, eToro wrote to Mr L explaining that they had identified unusual activity on his account and had limited its functionality until such time as he contacted them. On 11 December 2022, Mr L responded to eToro's request to speak to them and at that point, he confirmed the encashments and withdrawal requests hadn't been made by him. Consequently, eToro immediately attempted to recall the funds that had been sent on 10 and 14 November 2022 (it has since transpired that the request to recall those funds has failed).

Shortly afterwards, Mr L decided to formally complain to eToro. In summary, he said that he wasn't happy that they had allowed a withdrawal to take place on the account when he had never provided any identity documents. Mr L went on to say that from what he'd seen, eToro's terms stated that they wouldn't allow any payments out until such time as customers had provided valid ID and, as he hadn't provided any, eToro were wrong to have permitted the withdrawals to go ahead.

After reviewing Mr L's complaint, eToro concluded that they were satisfied they'd done nothing wrong. They also said, in summary, that as the two withdrawal amounts were sent to an account in the name of Mr L (rather than that of a third party), they weren't upholding his complaint.

Mr L was unhappy with eToro's response, so he referred his complaint to this service. In summary, he said that eToro should have had better controls in place to stop fraudsters from accessing his money. In addition, he felt that as his ID hadn't been 'verified', eToro were wrong to have allowed the withdrawals.

The complaint was then considered by one of our Investigators. She concluded that as eToro had undertaken an electronic identity verification of Mr L and that the money had been sent to an account in his name, she didn't think that eToro had acted unreasonably.

Mr L, however, disagreed with our Investigator's findings. In summary, he said that eToro had never provided any evidence that they'd sent his monies to a Wirecard account and more specifically, one that was in his name. In addition, he said that as far as he understood, his account hadn't been verified because accounts that have completed verification usually benefit from a green 'tick' mark next to the account name, which his doesn't have. That meant, Mr L said, eToro shouldn't have permitted the withdrawal. Mr L went onto say that he thought eToro's cyber controls were lacking because they'd only identified the withdrawals after the event rather than beforehand.

Our Investigator was not persuaded to change her view as she didn't believe that Mr L had presented any new arguments she'd not already considered or responded to. Unhappy with that outcome, Mr L then asked the Investigator to pass the case to an Ombudsman for a decision.

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.

I have summarised this complaint in less detail than Mr L has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. Instead, I will focus on what I find to be the key issue here, which is whether eToro have been fair and reasonable to reject Mr L's request for a refund of the monies that were fraudulently taken from his account.

My role is to consider the evidence presented by Mr L and eToro in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr L's complaint and it's largely for the same reasons as our Investigator – whilst I don't think there's a great deal more that I can add over what she's already set out, I'll explain why below.

I've looked very carefully at both sets of submissions on this case and I want to acknowledge that I very much recognise Mr L's strength of feeling about this matter. I can well imagine how distressing it must have been to have learned that fraudsters had accessed and then withdrawn funds from his trading account.

It would seem that somehow, Mr L's eToro sign in credentials found their way into the hands of a fraudster. They were able to successfully log into his account, make a small credit, undertake trades and then withdraw money before being spotted by either Mr L or eToro. After undertaking an assessment, eToro say their IT team is confident that Mr L's details haven't been leaked as a consequence of any data breach. So, quite how those sign-on details found their way into the wrong hands remains unclear.

From what I've seen, Mr L didn't have 'two factor authentication' (2FA) set up on his account. In short, 2FA adds an additional layer of protection to the account - each time a log on

attempt is made, a verification code is sent to the account holder's mobile phone, which is then needed to key into eToro's portal after the normal sign in screens to gain access. That means the fraudsters would've also needed to have been in possession of Mr L's mobile phone as well as his password. It appears that 2FA was only set up after the fraudulent withdrawals were undertaken.

From the investigations that eToro have undertaken, the IP address that was used to log into Mr L's account on 10 and 14 November 2022 (when the fraudulent withdrawals took place), are different to the ones that he normally uses to access his account and it would seem that the fraudsters used a virtual private network (or VPN), making it difficult to pinpoint precisely where the actions took place. But I don't necessarily think that because a different IP address was used to sign into the account, this would in itself be a big enough flag to have raised suspicions at eToro and that's because consumers often use different media to access their accounts.

On 10 November 2022, the fraudster made a deposit into the account of £10. Ordinarily, eToro don't permit third party payments into the account but, eToro have shared evidence that the card which made the payment was in the name of Mr L. So, at that point, there didn't appear to be any suggestion that his account had been compromised, particularly when monies were going into, rather than out of the account.

When a consumer makes a withdrawal, eToro require the funds to be paid into an account in the customer's name; that's covered in their terms and conditions under section 14.6. And, when the fraudsters requested a withdrawal, they did so to an account in Mr L's name. From what I've seen, eToro cross matched the name and address on the Wirecard account (where the monies were to be sent) to Mr L's details, which they held on file, and both sets of details matched. So, given that the details of the Wirecard account matched Mr L's personal details, I can't therefore conclude that eToro acted unreasonably by permitting the withdrawal.

Mr L has explained that because he'd not provided eToro with any identity documents, he thought that this would provide an additional layer of safety for his money and prevent any funds from being withdrawn. However, it would seem that eToro had actually already completed their verification checks on Mr L several years prior (on 25 June 2020) and they did so without the need for any documentation from him. To help fight financial crime, firms are required to undertake customer verification checks at the start of the customer relationship, and it seems that eToro did just that. Had eToro not undertaken those checks, it's unlikely that they would've allowed Mr L to have deposited monies and open the trades that he did. But in any event, I can't hold eToro accountable for Mr L's misunderstanding about whether his account had passed their verification checks or not because I've not seen any evidence to suggest to me that eToro misdirected him on this particular issue.

It seems that eToro first became aware that there might be a problem with Mr L's account on 15 November 2022. That was when they noticed that the withdrawal request to the Wirecard account in Mr L's name had the same IBAN number used on other confirmed hacked accounts. It was at this point that they applied limitations to Mr L's account until they had spoken to him. After contacting Mr L on 16 November 2022, eToro weren't able to speak to him until 26 days later, when they were able to confirm that the transactions were fraudulent. It therefore seems to me that this was the first point at which eToro had clear confirmation that Mr L's account had been compromised.

eToro have provided a comprehensive list of all the activities that it considers suspicious which would ordinarily warrant a closer look at a customer's account. For obvious reasons, I won't repeat that list here, but needless to say from what I've seen, they have various mechanisms in place to help reduce fraud. But, for me to conclude that eToro had done something wrong, I'd need to be persuaded that their actions were lacking. However, I don't

think they were – the fraudsters used the correct sign in credentials, the small deposit they made into the account and the withdrawals that were made all came from and went to cards in Mr L's name. In light of the sophistication employed by the fraudsters, I believe it's more likely than not that most platforms would have found it difficult to prevent. So, whilst I appreciate that my decision will come as a disappointment to Mr L, I'm not upholding his complaint.

My final decision

I'm not upholding Mr L's complaint and as such, I won't be instructing eToro (UK) Ltd to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 2 August 2024.

Simon Fox
Ombudsman