

The complaint

Miss J complains that TSB Bank plc (“TSB”) unfairly registered her details with a fraud prevention service (CIFAS).

What happened

Miss J fell victim to an investment scam and quickly ran out of funds. She was told that she’d obtain her investment if she could pay a fee. At the time Miss J didn’t have any further funds and the scammers persuaded her to move money for them.

Over a number of weeks, Miss J received multiple payments from various persons accounts, none of whom she knew. She was then told how to move the funds, generally through various apps designed to transfer cash which was collected in another country.

On different occasions Miss J was questioned by financial firms about the payments and Miss J was told what information to give them to enable the payments to be sent.

During one transaction, Miss J made up answers without reference to the scammer, asking them afterwards if this was ok?

Eventually, TSB received a report from another bank that some of the funds sent to Miss J were from an investment scam. Miss J was asked to prove she was entitled to those funds. She initially said that she knew the person and it was an informal loan.

TSB didn’t think this was correct and asked for further evidence that she was entitled to the funds. Nothing further was received concerning that entitlement. A few days later, Miss J called the bank and admitted that she’d lied and explained the situation she had found herself in. She admitted that she’d moved about £6,000 on behalf of the scammers and said she was blackmailed into it and told by them to lie to the banks in order to get her funds from the investment.

TSB decided to close her account and lodged a marker against her with CIFAS (a fraud prevention service).

Miss J then found it difficult to open an account and complained that the marker was unfair as she herself was a victim of the investment scam.

TSB amended the marker (to more accurately show how Miss J had been involved) but didn’t remove it. She remained unhappy and brought her complaint to the Financial Ombudsman Service for an independent review. An investigator looked into the issue and Miss J sent in screenshots of her conversations with the scammer.

TSB provided details of their investigation and their reasoning for lodging the marker.

After reviewing the evidence, the investigator thought that TSB’s actions were reasonable and didn’t uphold Miss J’s complaint.

Miss J disagreed and asked for a further review of her complaint, which has now been

passed to me 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.

TSB, along with other banks monitor their accounts for suspicious activity. If they receive information about their account holder (as they did here), they're required to investigate the matter and report their account holder to CIFAS if certain standards are met. CIFAS are a fraud prevention service who maintain a register of persons linked to suspicious activity using their accounts. There are strict rules before lodging such a marker because having a one in your name can cause difficulties obtaining financial products and they can last for six years.

There are two main parts to the evidence required. One being that TSB had to have reasonable grounds to believe that a fraud or financial crime had been committed or attempted. Here they received notice from another bank that Miss J's account had received funds from a scam against the sending account holder. So, this gave TSB sufficient evidence to meet the first part.

The second part that TSB had to satisfy was that they must have clear, relevant and rigorous evidence that they could confidently report the matter to the police. That means it must be more than just a suspicion.

It's apparent that Miss J herself was initially snared in the investment scam and then assisted them by moving other persons funds through her account, enabling the scammers to "cash out" the stolen funds.

The question for me here is whether Miss J was witting or unwitting? If I conclude that she was unwitting, then it would be difficult for TSB to meet the standards laid down by CIFAS. On the other hand, if the finding I make is that Miss J was more involved in the scam than she's said, then TSB's actions would meet the standards.

Miss J has argued that she was blackmailed into helping them and told to lie to the banks. I haven't seen any evidence of "blackmail" although I do accept she felt pressure to help to obtain her investment. From the evidence she's sent, it's clear that she was in regular contact with the scammers and after sending them her own funds, was left with little cash after there were "delays" with her investment. This went on for quite a few weeks and in that time, Miss J appears to have willingly assisted them without questioning the part she was playing too deeply.

At one point her messages show she didn't need to ask the scammers what lies to tell the bank because she seemed to know what to say. I don't think there's any doubt that Miss J knew what she was doing was wrong because each time she was questioned, she asked for the answers and seemed to know that the bank were suspicious. She wanted to give them the answer that allowed the money to pass through her account.

I understand, to an extent, that Miss J was trying to get her money back (including a substantial profit), but I do think she was instrumental in removing funds from other victims of this scam, one of whom reported she'd lost over £1,000. Whilst it doesn't appear that Miss J profited (in cash), her continued actions resulted in the loss of other people's funds. I don't think she gave this much thought and her own decision to lie to the bank (without being given an instruction by the scammer) led to her being involved far more than someone who was just operating on the instructions of the scammers.

Overall I think that Miss J was likely aware of her part in moving other people's money and lied to her bank (and other financial firms) in order to obtain her own money and investment back. When she was eventually asked to prove she was entitled to the scammed funds, Miss J again lied to her bank. I do acknowledge that she then admitted this to them in a later call, but I think this was only after realising the difficult situation she was in.

I think that TSB met the standards laid down by CIFAS when they reported Miss J and I'm satisfied their actions were both fair and reasonable in the circumstances.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 28 July 2024.

David Perry
Ombudsman