

## The complaint

Mr I has complained that Clydesdale Bank Plc (trading as Virgin Money) registered a marker against him at CIFAS, the national fraud database.

## What happened

In spring 2022, Mr I received some funds into his Clydesdale account, which he then passed onto a cryptocurrency exchange.

The funds were reported as fraudulent. Clydesdale closed Mr I's account and registered a marker against him at CIFAS.

Mr I explained he'd seen an advert on social media promising an incentive for signing up to the crypto exchange and putting some funds through it. The advertiser explained there was a staking process involved with a threshold that, if met, meant the exchange would pay out a bonus that they'd share with Mr I. Mr I received the funds and passed them on via the crypto exchange as instructed, but he didn't receive the bonus. He later realised he'd been used as a middleman when the bank closed his account for fraud. He accepted he'd been gullible.

Our investigator didn't uphold the complaint. Mr I appealed, so the complaint's been passed to me to decide. I asked both sides for further information.

I sent Mr I and Clydesdale a provisional decision on 18 December 2023, to explain why I thought the marker should be removed. In that decision, I said:

*I need to consider whether this report to CIFAS was made fairly. On this point, Clydesdale needed to have more than just a suspicion or concern. It needs to be able to show that it had reasonable grounds to believe that fraud or a financial crime had been committed or attempted, backed up by evidence which would support it being reported to the authorities.*

*Clydesdale received an official fraud report, and I can understand why it had serious concerns about what Mr I had done. I need to keep in mind that at that point, Clydesdale didn't have the evidence which Mr I has since provided.*

*However, since then Mr I has provided screenshots he took of his chat with the fraudster, and these back up his testimony. It looks like this was presented to Mr I as a way to earn bonuses from helping them with crypto investing, and I can't see that it was said or implied that Mr I would be aiding in fraud. For example, the fraudster talked about using referral codes, affiliate links, and staking activity to make money for Mr I despite Mr I not investing his own capital, and referred to the provided money as coming from "us" – not from fraud victims or any other third party. Mr I referred to the matter as investing, asked about the exchange's bonus threshold level, and tried to check that the person he was speaking to was legitimate.*

*Mr I's testimony about what happened with the fraudster has been clear, consistent, and plausible, fits with known methods of how fraudsters may recruit unwitting money mules, and is substantiated by his messages with the fraudster.*

*As far as I can see, Mr I did not benefit from the fraud himself. He sent screenshots of his activity on the crypto account. From what I can see, he received and sent on the funds as instructed, and then his balance was 0.*

*Mr I's Clydesdale account was long-standing and was used for normal activity before the fraud. So I don't think this was a case of an account being opened for the purposes of fraud.*

*From what I've found, the person Mr I was speaking to was an individual previously convicted for taking part in organised crime. I wouldn't expect Mr I to have known that at the time, but this all strongly suggests Mr I was taken advantage of by an experienced criminal.*

*It's not uncommon for people to be used as unwitting money mules, and I can see how someone inexperienced might believe it's legitimate to move money in this way for crypto investing or bonus schemes. CIFAS has guidance for cases such as this, where it explains that such markers should be applied to people who act as money mules knowingly and willingly – but not to people who did so unwittingly. And given the new evidence I have, I find it's most likely that Mr I was an unwitting money mule.*

*So based on what I've seen so far, I currently think Clydesdale should remove the marker.*

*I've also considered whether Clydesdale should pay Mr I compensation. But I can see that Mr I previously chose not to provide his evidence – he even told our investigator at first that he was unable to. So I can't say that Clydesdale acted unreasonably based on what it knew at the time – it didn't have the evidence which I now have. So I don't plan to award any further compensation here – I currently think that Clydesdale should just remove the disputed marker now.*

Both sides replied early. Clydesdale agreed that the marker should be removed based on the new evidence. Mr I provided some further points, which I'll talk about below.

### **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.

Mr I explained that the marker had caused him serious issues, including losing a job offer and suffering in his mental health. I'm grateful to Mr I for being open and candid with us about how this matter affected him, and I have taken into account everything he's sent.

If, for example, back in 2022 Clydesdale had been given the evidence which Mr I has now sent, and had then added the marker anyway, then I would have considered compensation. But he didn't send it to them, or our service, until very recently. Back in 2022, Clydesdale did tell Mr I that they were closing his account due to fraud, and they discussed the matter with him, but he didn't give them any of this evidence. Indeed, he then told our investigator that he didn't have any such evidence. The evidence in question only came to light in the last few weeks. So Clydesdale didn't have it at the time, and based on the above I cannot fairly conclude that Mr I was planning to send it to them at the time.

Based on what Clydesdale knew at the time, it doesn't seem particularly unreasonable for them to have added this marker. They had substantial evidence that Mr I had received and passed on fraudulent funds, and it would've looked like he was the main beneficiary of the fraud given that he sent the funds on to another account of his. I'm afraid Mr I does also bear some level of responsibility for letting himself get involved in fraud and not sufficiently looking into what he was really doing.

So while I do sympathise with Mr I's situation, I have not found sufficient reason to tell Clydesdale to pay him compensation here. I think that they should simply remove the CIFAS marker in dispute, as they have now agreed to do.

### **My final decision**

I direct Clydesdale Bank Plc to remove the CIFAS marker in dispute. I do not make any further award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 16 January 2024.

Adam Charles  
**Ombudsman**