DRN-2859647

The complaint

Miss L is unhappy because Monzo Bank Ltd (Monzo) did not reimburse the money she transferred to a fraudster.

What happened

Miss L says that she invested in Forex trading some years ago when she invested £100 and received a return of around £1,000 a few days to a week later. She didn't have a strategy and considers she was just lucky to have made this profit. In December 2019 Miss L was thinking about trading again but wished to learn strategies rather than just "trying her luck". At the same time, she saw someone I'll call Mr K on Twitter and contacted him via social media. Mr K told Miss L he was a trader and could help her to learn how to trade and invest for her. Miss L says she asked Mr K for further information and he told her that she'd receive a full refund if she wasn't happy or didn't receive a return on her investment. Miss L continued to communicate with Mr K by phone and on social media and says he was very knowledgeable and knew trading strategies and language.

Miss L says she recognised Mr K from a well-known television programme and trusted him as a result. He was also active on several other social media platforms. This gave Miss L confidence and she decided to make the following payments to Mr K using her mobile app:

Date	Amount
28/12/19	£200
28/12/19	£200
28/12/19	£200
30/12/19	£200
31/12/19	£200
Total	**£1,000**

Miss L has explained the payments covered things like a course fee, trading software Mr K said he would need to install and the funding of an investment. Mr K told Miss L that if she invested £200, she'd receive a return of £2,100 within two hours.

Miss L says that she found out she was the victim of a scam when she asked Mr K for a refund. Mr K told her he would arrange a refund through an e-money provider, but Miss L would need to pay money first for the refund to go through. Miss L contacted the e-money provider and was told it was a scam. Mr K then blocked Miss L on social media and disappeared.

Monzo isn't a signatory of the Lending Standards Board Contingent Reimbursement Model CRM Code (the CRM Code) but has explained that it is committed to applying the principles set out in it. The Code requires firms to reimburse customers who have been the victims of APP scams in all but a limited number of circumstances. Monzo says one or more of those exceptions applies in this case. It says Miss L made the payments without having a reasonable basis for believing they were genuine payments. In particular, Monzo says Miss L ought to have done more checks to make sure the payee was legitimate.

The investigator who considered Miss L's case initially upheld it but after considering Monzo's response she felt Monzo acted reasonably in deciding not to refund Miss L under the CRM Code. Miss L didn't accept what the investigator said and asked for a final decision, so the case has been passed to me to consider.

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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

When thinking about what is fair and reasonable in this case, I've considered whether Monzo should have reimbursed Miss L under the provisions of the CRM Code and whether it ought to have done more to protect Miss L from the possibility of financial harm from fraud.

There's no dispute here that Miss L was tricked into making the payments. She thought she would learn some trading strategies and make a return on an investment but transferred funds to a fraudulent third party. But this isn't enough for Miss L to receive a refund of the money under the CRM Code. The Code places a level of care on Miss L too.

Under the CRM Code, a bank may choose not to reimburse a customer if it can establish that*:

• The customer ignored what the CRM Code refers to as an "Effective Warning" by failing to take appropriate action in response to such an effective warning

• The customer made payments without having a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate

• The customer has been grossly negligent

**The two further exceptions outlined in the CRM Code do not apply to this case.*

Taking into account all of the circumstances of this case, including the characteristics of Miss L and the complexity of the scam, I think the concerns Monzo has raised about the legitimacy of the transactions Miss L made are enough to support its position that she failed to meet her requisite level of care under the CRM Code for the payments she made. I don't think she had a reasonable basis for believing the payments were for a genuine investment or coaching and the person she transacted with was legitimate. I'll explain why.

- Mr K told Miss L she'd receive a return of £2,100 in two hours after investing £200. Such a rate of return is too good to be true. Miss L has explained that she'd invested in Forex some years before and made a good profit, but she hasn't provided any evidence of this and the returns were made in a period of days to a week rather than in two hours. I consider the high rate of return should have led Miss L to be concerned about whether Mr K was a legitimate trader.
- Mr K told Miss L she'd get her money back if she wasn't happy. Given her previous experience Miss L should reasonably have known that that this kind of investment is volatile and risky, returns can't be guaranteed, and a genuine trader wouldn't offer her a refund.
- Mr K said he was a trader, but he didn't provide Miss L with any details of the company he worked for as I'd expect a legitimate trader would and the payments

Miss L made were to an individual rather than to a company. Given these points and the fact the rate of return was too good to be true I think Miss L should have checked out what Mr K told her.

- Most genuine regulated investment firms wouldn't arrange an investment via social media. Miss L and Mr K exchanged messages as follows,

  Mr K - *I'm an entrepreneur and run my own accumulations systems server I profit funds for others if ur interested let me know and join us today make 5k*

  Miss L – *How much*

  Mr K - *200 makes u 2100 today*

  Ur able to invest twice

  U receive within 2 hours I've just paid this one

  I don't consider this is the kind of communication you'd expect from an expert or legitimate trader and it doesn't appear that Miss L asked questions about how it was possible to make such substantial returns in such a short timescale. I consider these points should have caused Miss L to question whether Mr K was a legitimate trader.

- Miss L says she was reassured Mr K was legitimate because she'd seen him on a well-known television programme. I've not been able to find any link between Mr K and this programme, but in any event the television show isn't about investments or financial services in any way so I'm not persuaded that appearing in it could reasonably mean Mr K was a legitimate trader.

- Miss L continued to make payments over a four-day period but didn't receive anything in return each time. I believe that the fact Miss L didn't receive anything in return – given this is what the 'trader' promised - should have led her to be concerned about the legitimacy of Mr K and the proposed deal and so I think she ought reasonably to have undertaken further checks as a result.

Given everything I've said I consider Miss L should fairly and reasonably have completed some checks before making the payments to Mr K and that overall she hasn't met the required level of care to be reimbursed under the CRM Code.

I've gone on to think about whether Monzo did enough in this case to protect Miss L from financial harm from fraud.

The CRM Code says that where firms identify authorised push payment scam risks in a payment journey, they should provide Effective Warnings to their customers. The Code also says that the assessment of whether a firm has met a standard or not should involve consideration of whether compliance with that standard would have had a material effect on preventing the scam.

I'm also mindful that when Miss L made these payments, Monzo should fairly and reasonably also have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud. So I've also considered whether the payments Miss L made were unusual or suspicious.

Overall, the payments Miss L made were unremarkable and I don't think they stood out enough for Monzo to have been concerned that Miss L might have been at risk of financial harm from fraud at the time she made them – I don't think Monzo should've identified an authorised push payment scam risk in any of the payment journeys. Miss L had made legitimate payments for similar amounts before.

Taking everything into account, I think Monzo's actions in this particular case were appropriate and proportionate to the payments Miss L made.

Finally, I've considered Monzo's actions once it was made aware of the scam. Miss L first contacted Monzo on 31 December 2019 when she explained she'd sent money to someone who said they were an investor but didn't get any money back and could no longer get hold of the individual. Miss L was asked to send Monzo everything she had but didn't contact it again until 3 January 2020. At this point Miss L said she'd been scammed. Monzo contacted the receiving bank the same day but was told that no funds remained.

Overall

I consider Miss L didn't have a reasonable basis for believing she was making a payment for a genuine investment and advice about how to trade, and that had Miss L have made additional checks the scam would have been prevented. I'm sorry to have to disappoint Miss L, but I can't fairly say Monzo should have done more or that it should refund the money that she has lost.

My final decision

For the reasons I've explained I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 20 July 2021.

Jay Hadfield
Ombudsman