

The complaint

Miss A complains that Monzo Bank Ltd hasn't refunded her after she fell victim to an investment scam.

What happened

Miss A found someone offering opportunities to invest through a social media account she follows. The account owner posed as a broker and said they worked for a firm I'll refer to as C. But, unbeknownst to Miss A, the account was in fact operated by a fraudster, with the intention of stealing money from people.

The fraudster had posted 'success stories' to their account which seemed to show they'd helped people achieve significant returns on investment. Screenshots showed large returns and the apparent transfer of funds from the scammer to her 'clients'.

Miss A became interested and got in touch with the fraudster. She told her that she'd manage trades on Miss A's behalf and take a 25% commission and that she could expect a same day return of £1,500 to £2,000 on a £500 investment. The fraudster also told Miss A that she offered a no loss guarantee and that her trades were successful 98% of the time.

Miss A has said she looked for C online and found it was a genuine business. She found it registered on Companies House and said it had a professional looking website. She also said it was FCA regulated.

Miss A told the fraudster she was sceptical but decided to proceed on the basis of the no loss guarantee. The conversation with the fraudster moved onto WhatsApp where the details were expanded upon and Miss A was given account details to transfer her £500 investment. She made the payment as instructed and the fraudster said they'd begin trading.

Within an hour the fraudster contacted Miss A with an update, saying that her return on investment had reached over £1,500 within the first 35 minutes of trading. Miss A then continued to receive updates where she was told the return had increased to over £6,000 an hour later, £13,000+ after another hour and, finally, over £20,000 after another 30 minutes (for a total of around two and a half hours). For the final two balances, the fraudster sent Miss A a screenshot which showed the amounts.

At the point the trade had hit more than £13,000 Miss A was told she'd have to pay a combined administration and release fee of £2,500. She was given the account details and she made the payment. Once that was paid Miss A was told there were more fees for various reasons including a covid-19 related tax of £1,000, an income tax charge, and a CHAPS fee of £1,000.

Miss A questioned some of these fees as she was presented them as she'd been told in advance of the requests that everything had been paid. And Miss A questioned the CHAPS fee, understanding that such a charge would normally only attract a fee of £20-40. But Miss A proceeded with each of the payments following assurances from the fraudster.

Miss A realised she'd been scammed when her supposed profits never materialised. She contacted Monzo the day after sending the money to report the scam and it looked into what had happened. Miss A had initially said that she hadn't made the payments herself, which

sent the investigation in the wrong direction. But she was able to correct the details and Monzo considered whether it ought to refund her as the victim of a scam.

Monzo didn't uphold Miss A's complaint and offered no refund. It didn't think Miss A had a reasonable basis for believing she was engaging in legitimate investment activity.

Miss A wasn't happy with Monzo's response and so brought her complaint to this service. One of our investigator's considered what had happened and, prior to issuing her opinion, Monzo made an offer to refund some of Miss A's loss. It acknowledged that some of the payments she'd made ought to have prompted a fraud warning from it. And as those warnings weren't given it agreed to refund £2,200 (the final two payments) of Miss A's total loss.

Our investigator considered Monzo's offer and felt it represented a fair and reasonable settlement.

She considered the provisions of the CRM Code, which Monzo hasn't signed up to it but has said it's committed to applying the principles of in Miss A's case. And so she thought about whether Miss A did have a reasonable basis of belief when she sent the fraudster the various payments. She didn't find that she did, noting the following:

- Miss A came across the fraudster on a social media platform and that was an unlikely place for a genuine investment firm to conduct business;
- the language used by the fraudster was not professional or what might typically be expected of a genuine investment firm;
- she acknowledged that Miss A had looked for C online and found a genuine firm, but she noted Miss A didn't take further steps to confirm the fraudster worked there or that she was genuinely in contact with it;
- the investment offering itself was too good to be true, which ought to have caused alarm;
 - the initial offering was to return a significant amount in a matter of hours;
 - the alleged returns on investment that followed appeared more and more unlikely;
 - there was a no loss guarantee;
- funds were sent to five different recipients, with all accounts held in personal names (rather than that of a business)

Our investigator said, with all of that in mind, that she couldn't recommend Miss A's complaint be upheld in full. She felt Monzo had fairly declined to reimburse Miss A's total loss and that its offer to refund the last two payments was fair and reasonable.

Miss A disagreed. She felt she'd done all the checks she could and found the screenshots shared by the fraudster, both from the social media page and whilst the scam was ongoing, to be particularly persuasive.

The case has now been passed to me for a final 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'm sorry to disappoint Miss A but I'm not telling Monzo to do any more than it already has. I know going through this experience must have been very difficult. Scams like this are particularly cruel and have both a financial and emotional impact. But having considered Monzo's actions I don't find it's acted unfairly. I'll explain why.

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.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

However, where the consumer made the payment as a consequence of the actions of a fraudster, it may sometimes be fair and reasonable for the bank to reimburse the consumer even though they authorised the payment.

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

Monzo has agreed to adhere to the provisions of the Lending Standards Board Contingent Reimbursement Model (the CRM Code) which requires firms to reimburse customers who have been the victims of Authorised Push Payment (APP) scams like this, in all but a limited number of circumstances.

It is for Monzo to establish that a customer failed to meet a requisite level of care under one or more of the listed exceptions set out in the CRM Code.

Those exceptions are:

- The customer ignored an effective warning in relation to the payment being made.
- The customer made the payment without 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

There are further exceptions within the CRM Code, but they do not apply in this case.

Did Miss A have a reasonable basis for belief when making the payments?

There's no dispute here that Miss A was tricked into making the payments. She thought she was investing money legitimately, with the promise of returns on that investment to come. But this isn't enough, in and of itself, for Miss A to receive a refund of the money under the CRM Code. The Code places a level of care on Miss A too.

Monzo and our investigator have both said they believe Miss A didn't have a reasonable basis for believing the opportunity she was presented with was legitimate. I'm in agreement with that position and for broadly the same reasons.

I find that initial offering made to Miss A was too good to be true. The returns promised, of over 300% in a matter of hours, seems highly improbable to the extent it ought to have been regarded with suspicion. There was no real explanation (or questions asked) of how such a high rate of return could be achieved. And I believe it's fair and reasonable to say that this ought to have put considerable doubt in Miss A's mind.

Indeed, I can see from the evidence that she was sceptical. She told the fraudster as much before proceeding with the investment. And so it seems as though Miss A did have doubts but decided to proceed anyway.

Miss A has said one of the reasons she went ahead was because of the no-loss guarantee. But that seems like a further questionable feature of the investment. Any investment will carry a degree of risk and I don't believe someone needs to be an experienced investor to

appreciate as much. I believe such a guarantee can generally be described as an unlikely and questionable offer.

And so the starting position here is that I believe Miss A ought to have been wary about what she was being told, before sending any money. Miss A has told us she was persuaded to continue, in part, because of the fraudsters social media posts about success stories and deposits into other peoples' accounts. But there was no way for her to – or, as far as I'm aware, attempt to – verify those posts as legitimate. And so I don't think it was reasonable to place a great deal of faith in them. I also think our investigator made a fair point in suggesting that the use of social media – and the language used by the fraudster – didn't represent what one might reasonably expect of a legitimate investment firm.

Miss A has explained how she checked C was a real company. It is true C can be found on Companies House. But it isn't listed as being an investment broker. There is also a genuine website. But it clearly shows that the company isn't involved with investments or providing a brokerage service. And so, I don't believe these sources of information can be said to have reasonably given a basis of belief. And it is the case that Miss didn't contact C to make sure the fraudster did work there, or was who she said she was.

Miss A has said she checked C was FCA registered. But I can't see that they are or ever were. It seems she's relied on some information provided by the fraudster for that assurance, without checking to make sure it was true.

With all of this in mind I don't find that Miss A had a reasonable basis for belief when she made the first payment of £500. I then consider that basis for belief diminishes further as the scam goes on and more payments are made. The alleged returns and the reasons for more payments being required get less and less believable. That's because:

- the alleged returns rapidly get higher and higher to the point Miss A is told she'd made back over £20,000 in less than three hours, which strikes me as very improbable on a £500 investment;
- payments are made to numerous different individuals without a reasonable explanation as to why personal accounts are being used;
- the fees and charges that are requested hadn't been explained to Miss A upfront;
- some of the reasons given don't sound believable, for example;
 - it's unclear why the investment broker would be collecting income tax for Miss A, and she didn't ask any detail;
 - the suggestion of a form of covid-19 tax is unchallenged and unquestioned;
 - Miss A was aware a CHAPS transfer cost far less than she was being told;
- the fraudster gets Miss A's name wrong during their conversation.

I have taken account of the screenshots sent to Miss A by the fraudster. These appear to show a balance that matches what Miss A is being told she'd made. But there's very little detail on the screenshots; some figures but little else. There's nothing to tie the balance to Miss A. Nor is there anything that links the numbers shown to any form of trading or investment balance.

With all of this in mind I find that Miss A made each payment to the fraudster without having a reasonable basis for belief.

Should Monzo have presented Effective Warnings to Miss A?

Monzo has explained that Miss A wasn't provided with any warnings. Since this service became involved in Miss A's complaint it has acknowledged that it ought to have done so for some of the payments, given the increase in spending and unusual activity on Miss A's

account. It's on that basis that it has agreed to refund the final two payments made by Miss A, totalling £2,200. It has also paid interest on that amount at 8% simple per year.

I believe the final two transactions represent the point where Monzo ought to have recognised a scam risk and presented warnings. And so, because it didn't, it's right that it should provide a refund to Miss A. Prior to that point I don't find the transactions were so remarkable that Monzo ought to have been concerned about Miss A's account.

Where it's found that a bank ought to have provided warnings but didn't, and where a customer made payments without a reasonable basis for belief, as is the case here, I'd expect to see a refund of 50% of the loss. Monzo has refunded more than that and so has done more than I'd expect it to do in the circumstances. Even if Monzo were considering a refund of all of the payments, which it isn't and I don't find it needs to, it has still refunded more than 50% of Miss A's total loss. And so I'm making no further award.

Could Monzo have recovered Miss A's money?

Where scams of this nature are involved it's often difficult for a bank to recover a customer's losses from the account the money was sent to. That's because the fraudster will move the money on very quickly, making it impossible to return.

Having seen evidence of the receiving accounts I'm satisfied that's what happened here. It's clear that the money Miss A sent to the different accounts was moved on right away. And so by the time she reported the scam, the money was already gone and there was nothing Monzo could do to recover it.

Putting things right

I understand that Monzo has already refunded the £2,200 and paid the 8% interest it offered. If it hasn't it should do so now.

My final decision

I uphold this complaint against Monzo Bank Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 16 December 2021.

Ben Murray
Ombudsman