DRN-3246018

The complaint

Mr and Mrs K complain Lloyds Bank PLC won't reimburse money Mr K lost when he fell victim to a scam.

The full details of this complaint are well known to both parties, so I won't repeat them in full here. Instead, I'll recap the key points and focus on giving reasons for my decision:

- Mr K was looking into cryptocurrency when he was contacted by FXTrademarket. Cryptocurrency was increasing the time and so he was persuaded to invest. He invested a total of £2,800 during November 2018 over four payments.
- Mr K realised he'd been the victim of a scam when they pressured him to invest more money and he didn't want to; and when he tried to withdraw his funds he was blocked from the account.
- I understand Lloyds declined to carry out a chargeback as Mr K didn't have the requisite evidence.
- Our investigator upheld the complaint. She was satisfied the payee wasn't legitimate. The payee as per Mr K statements was INTLSECLTD, a different party to the broker Mr K was dealing with, which was FXTrademarket. Searching INTLSECLTD returns a warning on the FCA website that this business was carrying on regulated activities within the UK without being authorised.
- She therefore concluded the payments ought to have blocked and it ought to have intervened and asked probing questions about the payments. And had it done so, she was satisfied the scam would have come to light and unravelled, preventing Mr K's loss.

Lloyds didn't respond to the view, or to our chasers for a response. And it hasn't provided any submissions for an ombudsman's consideration when it was notified the case would be referred for a final decision due to its non-response. I have also noted that it never actually provided us with a file either.

I'm satisfied Lloyds has had plenty of opportunity to provide its side of the story and and its now appropriate for the complaint to progress to this final stage.

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 would like to reassure the parties that although I have only set out the key points above, I have read and considered what has been provided. Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- There is no dispute that Mr K authorised the transactions in question; he made the payments using his legitimate security credentials. Whilst he didn't intend for his money to go to fraudsters, he is initially presumed liable for the loss.
- Lloyds is aware of our approach of expecting it to have been monitoring accounts to counter various risks; have systems in place to identify unusual transactions or other

indicators that its customers were at risk of fraud and, in some situations, make additional checks before processing payments, or declined them altogether to protect customers from possible financial harm from fraud. And as explained by the investigator, it's considered good industry practice for firms to have updated watch-lists with types of scams and potential fraudsters and for those watch-lists to be updated and communicated internally to staff within one month of an alert being posted by the FCA or IOSCO (International Organisation of Securities Commission).

- Such an alert should automatically trigger its systems and lead to payments being paused, pending further intervention – such as making enquiries, or giving a scam warning.
- In this case although Mr K was dealing with FXTrademarket he was paying INTLSECLTD. Searching this returns International Securities Limited t/a Brokers Station. There was a warning about this trader published on the FCA website on 10 April 2018. This was over six months before Mr K made their first payment to this payee. Given the timing of the alert and when the payments were made, Lloyds ought to have automatically blocked them. Lloyds had had time to update and communicate its watch-list between the publication of the warning and the payments being made and it should have appropriately questioned Mr K before processing the transactions.
- Had Lloyds carried out its due diligence and duties and asked Mr K about the payments, I've no reason to doubt that he would have explained what he was doing. Whilst I accept Lloyds had no duty to protect him from a poor investment choice, or give investment advice, it could have provided information about the steps a customer can take to ensure, as far as is reasonably possible, that they are dealing with a legitimate person – such as checking the payee was authorised with the FCA. And it could have drawn on its own knowledge and information that was within the public domain (as referenced by the investigator) about the high risks associated with trading and the potential for fraud and provided Mr K with a potential scam warning.
- There isn't any evidence that Lloyds intervened. Had it done so, I'm satisfied Mr K would have looked further into the opportunity, about the investment type in general, whether the trader was regulated here or abroad and noted the various warnings about trading scams. He also would likely have come across not only the warning for the payee, but an additional warning on the FCA about the broker FXTrademarket, which was published in August 2018. I consider it highly likely that coming across two warnings for both of the merchants involved would have exposed the scam and caused Mr K to stop trading, thereby preventing the loss of £2,800.
- I have considered that the name of the payee on the statement doesn't quite match that of the warning. But given this is the very first return on an internet search, I'm satisfied if Lloyds had automatically blocked payments to International Securities Limited t/a Brokers Station that would have resulted in the payments to INTLSECLTD being blocked as well.
- But that isn't the end of the matter. I have also considered whether Mr K should bear some responsibility for the situation in which he finds himself. And having done so, I don't think he should. Mr K had shown an interest in cryptocurrency and it isn't unknown for large gains to be made on cryptocurrency in a short space of time (I accept its also possible for large losses to be made). I'm not persuaded Mr K foresaw the risk that he might have been involved in a scam until after he had already invested, and it as at that point he stopped investing. I'm therefore not persuaded it would be fair to reduce compensation accordingly.

My final decision

For the reasons given, my final decision is that I uphold this complaint. I require Lloyds Bank PLC to:

- Reimburse £2,800 to Mr and Mrs K; and
- Add 8% simple interest per year to that sum from the date of the payments to the date of settlement, less any lawfully deductible tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr K to accept or reject my decision before 16 March 2022.

Claire Hopkins
Ombudsman