

## The complaint

Mr S is unhappy with Bank of Scotland plc's (trading as Halifax) response to several transactions he disputed.

## What happened

- Mr S says he was promised significant returns if he invested on a trading platform, trade360.com. He saw they were regulated and had good reviews online, so he invested.
- He was assigned an account manager, who made trades on his behalf and encouraged him to invest more to become a 'VIP account'. After making several card payments, they told him he'd reached the limit, and he would need to transfer money via Rational Foreign Exchange.
- Mr S said it was difficult to withdraw money, and that he was told that he'd have to invest more to get his money back. He was also switched to a professional account, without asking.
- In total, Mr S invested £70,268.13 and received two credits totalling £3,719.38. By May 2021, the balance of Mr S's account with trade360.com was \$8,205.52, before a debit was made for that amount.
- In May 2021, trade360.com told Mr S they'd no longer provide services to the UK. Mr S disputed the transactions with Halifax. They said they couldn't help, as he didn't have the evidence required to raise a chargeback.
- Mr S raised a complaint – he said Halifax should've intervened with the payments. Halifax didn't agree, on the basis that the payments weren't unusual and they didn't think Mr S was the victim of a scam.
- In March 2022, I issued a provisional decision that didn't uphold Mr S's complaint. In summary, I wasn't sure this was a scam. But either way, I didn't think Halifax had a reason to be concerned with the payments at the time. And I didn't think there were reasonable prospects of a chargeback claim succeeding. So I didn't think Halifax were responsible for putting things right.
- Mr S responded. In summary:
  - He submitted he was a victim of a scam and has outlined his concerns with trade360.com's practices, including supporting evidence. The fact that Halifax looked into raising a chargeback showed they also agreed it was a scam.
  - Halifax questioned smaller sized payments in the past, so they ought to have intervened with these. He also said that the larger transactions were to buy a

house. The bank knew this, as the money was sent in his name, to the address they held.

- Mr S explained his challenging circumstances and how he didn't risk his money knowingly.

### **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.

Having considered Mr S's reply carefully, I've not changed my mind about the outcome of this complaint. I'll address what I think are the material points in his response:

- Mr S has described and provided evidence to support what went wrong with trade360.com, and why he thinks it was a scam. But I'm not deciding a complaint about them. And even if I accept this was a scam, it's not as simple as saying that because it was, Halifax should refund his losses. Instead, I need to see that Halifax got something wrong.
- Mr S questioned why Halifax queried smaller payments before and not these. I don't know the answer to that – banks have their own fraud prevention measures, usually based on algorithms, and there will be several factors that cause payments to be pulled up. But my decision isn't about why these smaller payments did flag – it's about whether the payments that ultimately went to trade360.com ought to have flagged. My provisional findings explained why I didn't think Halifax should've stepped in.
- In response to this, Mr S raised how the larger payments were to buy a house, and Halifax knew this as the payments matched his details. But it remains they were recent examples that Mr S was legitimately making several large transactions – for up to £75,000 – in the months prior to the payments in dispute. And I note that the foreign transfers weren't the only examples of large transactions – there's a debit card transaction for around £10,000 a few months before too. This, in combination with the other factors described in my provisional decision, mean I'm not persuaded that the disputed payments were so out-of-character that Halifax ought to have intervened.

So in all, I remain satisfied that Halifax can't fairly be blamed for Mr S's losses. For completeness, I've included my reasons from my provisional decision again below.

- It's not clear this was a scam. Given the account manager's practices and the losses Mr S faced, I can see how this felt like fraud to him. But I'm not sure that the intention was to deceive him into departing with his money. It's possible they did promote, with arguably unethical or unfair tactics, a high-risk investment – and that resulted in significant losses for Mr S. But that doesn't necessarily meet the high legal threshold for fraud.
- I don't consider that I need to make a conclusion on this either way. The starting position for authorised transactions, as it's accepted these were, is that Mr S is liable. But alongside that, I'd expect Halifax to look out for unusual transactions or other signs that might suggest Mr S is at risk of fraud. To be clear, that doesn't mean they should protect him against the risk of bad bargains or give investment advice.

- Here, I don't think Halifax should've been alarmed by the debit card payments to trade360.com or the faster payments to Rational Foreign Exchange. In saying that, I've considered:
  - At the time, both companies were regulated by the FCA. And neither the FCA, nor the Investor Alerts Portal of the International Organization of Securities Commissions (the international body that brings together the world's securities regulators) had any published warnings about them.
  - Mr S's account regularly received and made payments that were on par with the value of these transactions.
  - The disputed transactions didn't happen all at once. Instead, they took place over around four months.
- So, regardless of whether this was a scam, I don't think there was a reason for Halifax to have challenged these payments. I'd only expect them to step in if something looked unusual. Afterall, they must balance the extent to which they intervene in payments to try and prevent fraud against the risk of unnecessarily inconveniencing or delaying legitimate transactions.
- I've also considered whether Halifax could've helped Mr S by raising a chargeback for the debit card transactions.
- Chargeback is a voluntary scheme run by VISA, who act as an arbitrator between a merchant and customer if they can't resolve a dispute themselves. It's subject to their rules, and there are limited grounds on which a chargeback can succeed.
- VISA's rules did cover investment trading – in 2017, it expanded them to cover situations where investment traders prevented cardholders from withdrawing their available balance. But it required very specific evidence, such as dated evidence that they had an available balance, and that they tried to withdraw sums equal or less than their balance.
- Mr S didn't have this evidence when Halifax asked for it. I know there are good reasons for that, but it doesn't change VISA's chargeback rule requirements.
- It follows that I don't think Halifax acted unfairly when they didn't raise a chargeback, because I can't see it had reasonable prospects of success.
- So, in all, I don't think Halifax ought to have prevented these payments before they went ahead, and I don't think there was a viable route for them to raise a chargeback later. That means I can't fairly hold Halifax responsible for Mr S's losses.
- I know this will be hugely upsetting news for Mr S. Because it seems he was dealing with trade360.com, who were regulated at the time, he could raise a complaint with them directly. And if he's unhappy with what they say, he might be able to bring that to our service to investigate as a separate complaint.

### **My final decision**

For the reasons I've explained, I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 May 2022.

Emma Szkolar  
**Ombudsman**