DRN-3543608

The complaint

Mr J complains that Monzo Bank Ltd ("Monzo") failed to protect him from falling victim to an investment scam and refused to refund the money he lost.

What happened

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

- In May 2021, Mr J came across an investment opportunity through an individual he met on social media. Between 23 May and 7 June 2021, he authorised four payments totalling £7,000 to a cryptocurrency exchange, which I'll refer to as "B", to buy cryptocurrency which was then sent on to a trading platform. Mr J also made a further payment through an account held with another bank. The following transactions were made to B using Mr J's Monzo debit card:

Date	Amount	Running total
23 May	£200	£200
28 May	£4,000	£4,200
3 June	£1,000	£5,200
7 June	£1,800	£7,000

- Mr J eventually realised the trading platform was a scam and he reported the transactions to Monzo. At the time, he said that his phone had been hacked and someone else had accessed his account to authorise the payments. When Monzo declined the fraud claim on the basis that it was satisfied Mr J had authorised the transactions (it also closed his account), he admitted that he hadn't been honest and in fact had been scammed.

- Mr J complained to Monzo that it shouldn't have allowed him to make these payments as the Financial Conduct Authority ("FCA") had imposed restrictions on B and it wasn't permitted to undertake any regulated activity in the UK. Mr J asked Monzo to refund the payments, re-open his account, and pay £500 compensation. Monzo stood by its decision but offered £25 compensation to acknowledge that it took longer than usual to respond to Mr J's complaint.

- Our investigator concluded that Monzo didn't act unfairly in letting the payments go through – there were no warnings about the merchant at the time and the payments weren't significantly unusual for Mr J's account. The investigator thought about recovery and concluded there were no chargeback rights. He also thought it wasn't unreasonable for Monzo to have closed Mr J's account as it reasonably had concerns following his initial version of events. And that the compensation offered was fair in the circumstances.

- Mr J disagreed and asked for his complaint to be escalated to an ombudsman.

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 hear that Mr J has been the victim of a scam and the impact this has had on him. I'd like to reassure him and Monzo that although I've only set out the key points, I have read and considered what's been provided in its entirety. Having done so, I agree with the conclusions reached by the investigator for the following reasons:

- Under regulations and in accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. There is no dispute these payments were authorised. The starting position is that liability for an authorised payment rests with the payer even where they were duped into making that payment.

- However, in accordance with the law, regulations and good industry practice, a bank has a duty to protect its customers against the risk of fraud and scams so far as is reasonably possible. If, in breach of that duty, a bank fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

- Monzo ought to have been: monitoring accounts to counter various risks; having systems in place to identify unusual transactions or other indicators that its customer was at risk of fraud; and, in some situations, making additional checks before processing payments or declining them altogether to protect its customer from possible financial harm from fraud.

- In Mr J's case, I don't think there was a reason for Monzo to have challenged any of the disputed payments. There wasn't, and to my knowledge still isn't, a duty on a payment service provider like Monzo to check the regulatory status of a merchant before executing an authorised payment instruction. That said, it isn't unreasonable to expect a payment service provider to pay attention to any warnings about the merchant from UK and overseas regulators. It's true that the FCA placed restrictions on the activities that B could carry out, these weren't effective until *after* Mr J's payments. There were no regulator warnings about B at the time he authorised the payments. So, I wouldn't have expected them to have flagged on Monzo's systems based on the merchant name alone.

- Looking at the operation of Mr J's account in the year leading up to the disputed payments, I don't consider the transactions were particularly unusual or suspicious such that they ought to have triggered Monzo's fraud detection systems. Mr J regularly cleared the account balance after receiving credits into his account. The disputed payments were spaced out over several days and, apart from the £4,000-payment, were similar in value to other payments on the account. A one-off larger-value payment in and of itself isn't so unusual that I think Monzo ought to have flagged it for additional verification. A bank must balance the extent to which it intervenes in payments to try and prevent fraud, against the risk of unnecessarily inconveniencing or delaying legitimate transactions

- I've gone on to consider whether Monzo could have done more to try and recover Mr J's money via a chargeback claim after it became aware of the situation. But a chargeback in this instance would have most likely failed, given the transactions Mr J used his Monzo card for were to pay B (a legitimate company) for the purchase of cryptocurrency, which was duly received. The loss Mr J has complained about occurred when he paid the cryptocurrency to the fraudulent broker/trader. So, he could not claim that he did not receive the goods or services paid for from his Monzo account; that being the purchase of the cryptocurrency.

- I've also considered the closure of Mr J's account, and I don't think Monzo has been unfair or unreasonable in its actions. The terms and conditions of the account allow for immediate closure in certain circumstances – and I can see that providing false information is one those. Based on Monzo's findings that Mr J had authorised these transactions when he claimed that he hadn't and provided a backstory which wasn't true, Monzo was entitled to close his account without giving notice. I acknowledge that Mr J's other bank didn't close his account when it became aware of the true circumstances. But this doesn't mean that Monzo's decision to exercise its rights was unreasonable or unfair.

- Monzo's already apologised to Mr J for giving him the impression that it wasn't taking his complaint seriously and has also offered compensation. Our investigator made some observations regarding the content of Monzo's final response letter which he thought was insensitive at times. I've considered everything in the round, and I'm satisfied Monzo's offer of £25 is fair in the circumstances. So, I won't be making a further award. I understand Monzo's requested account details from Mr J to pay the compensation. It's unclear if this has already happened but if not, Mr J can contact Monzo directly to provide the requested information as set out in its final response.

In summary, I know that Mr J will be disappointed with this outcome. Not least because the matter has been ongoing for some time. But for the reasons stated above, I don't consider it would be fair and reasonable to hold Monzo liable for his loss.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint as Monzo Bank Ltd has already fairly resolved it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 4 August 2022.

Gagandeep Singh
Ombudsman