DRN-3792508

The complaint

Mr Y complains that Barclays Bank UK PLC ("Barclays") have unfairly refused to refund him the funds that he lost as part of an investment scam.

What happened

The details of this complaint are well known to both parties, so I will not repeat everything again here. In summary, Mr Y was in contact with a scammer who convinced Mr Y that he could make money by trading. Mr Y made the following payments. These payments were then forwarded on to a company I will call B.

Transaction Number	Date	Merchant	Amount	Running Total
1	03 June 2021	Coinclan	£2,000	£2,000
2	03 June 2021	Coinclan	£800	£2,800
3	08 June 2021	Binance	£2,000	£4,800
4	09 June 2021	Binance	£2,000	£6,800
5	10 June 2021	Binance	£1,000	£7,800
6	11 June 2021	Binance	£1,000	£8,800
7	14 June 2021	Binance	£1,000	£9,800
8	18 June 2021	Binance	£1,000	£10,800

When attempting to make the payment on 8 June 2021 Barclays blocked this payment. He had a call with Barclays and was asked to attend a branch to unblock his account. His account was unblocked.

Subsequently Mr Y attempted to withdraw the funds from his trading account but was unable to. At this point he realised he had been scammed.

When Mr Y raised this with Barclays it refunded 50% of the first two transactions but declined to refund the remaining transactions

Our investigator upheld the complaint in part. She didn't think that Barclays intervention on 8 June 2021 went far enough and thought Barclays should have gone further. The investigator thought that the scam would have likely been prevented from that point if Barclays had contacted Mr Y from the outset and asked probing questions about the nature of the payment. Barclays disagreed, so the matter has been escalated to me to determine.

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.

It isn't in dispute that Mr Y authorised the disputed payments he made to the two crypto exchanges (where his funds were subsequently transferred on to the scammers from his crypto wallet). The payments were requested by him using his legitimate security credentials provided by Barclays, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed. However, I've considered whether Barclays should have done more to prevent Mr Y from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.

In relation to the first two payments, I do not think that they were greatly out of character and I think the warning that Mr Y was provided with by Barclays was sufficient.

That said though, it isn't in dispute that this third payment *was* unusual, given that it did trigger the bank's fraud prevention systems and was automatically blocked pending further enquiry. Accordingly, it's just a matter of whether the bank went far enough in all the circumstances with that intervention.

I have listened to the call between Barclays and Mr Y and I have carefully considered the notes of the conversation that Mr Y had in the branch. In relation to the call between Barclays and Mr Y, I don't think that Barclays asked sufficiently probing questions during this call about what Mr Y was intending to do with the funds once the transaction had been made. Had Mr Y been asked more detailed questions, I think that Mr Y would've explained that he was intending to forward the payment to B.

If Barclays had asked Mr Y further questions and asked for more of the basic surrounding context, I think it's likely he would have explained what he was doing and that he was making an investment after being in discussion with someone who offered to act as a broker, where he was being told to send money to the broker via crypto-exchange platforms. Barclays should have recognised these circumstances of being indicative of a scam and have acted to provide Mr Y with a warning.

I note that after the call with Mr Y a note was added to Barclays internal system saying that the transactions Mr Y was intending to make were high risk and were potentially a scam. The note went on to say when Mr Y came to the branch he would need to, amongst other things, show that the funds that he had transferred were still with Binance and Coinclan and that the branch should call that department when the consumer is in branch.

But the note from when Mr Y attended the branch does not suggest that this was done. After all, the funds were no longer with Coinclan which would've been discovered, had the note been followed and there is no indication of a call at this time between the branch and call centre. The first note suggests that Barclays were aware that Mr Y was likely being scammed and had the suggestions of the note been followed then I am confident that the scam would have unravelled. So overall I think Barclays did not go far enough during the first call or when Mr Y was in branch to stop Mr Y being scammed.

Overall, I'm satisfied that a warning to Mr Y from his trusted bank would have probably led him to discover various scam warnings online. I appreciate there were no FCA warnings about the merchants at the time, but I can see there were other websites warning people about investing with B.

Even if Mr Y had not worked out that the person he was talking to was fraudulent, it is likely that a warning would have at least alerted him to the common issues arising in relation to cryptocurrency scams, which in turn would have revealed the truth behind the scammer's representations. This would have probably stopped Mr Y in his tracks. So, but for Barclays' failure to act on clear triggers of potential fraud or financial harm, Mr Y probably wouldn't have made the payments.

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their decisions (see s.1C(d) of our enabling statute, the Financial Services and Markets Act 2000). In this case, I do not think that Mr Y was to blame for what happened; that he did not foresee the risk of this sort of harm or any harm. I do not think Mr Y could have foreseen the risk that the person he was dealing with was a scammer and the trading account he was viewing was likely to be a simulation. And as Barclays has pointed out, there were no regulatory warnings in place about B at the time Mr Y started making the payments.
So, in the circumstances, I do not think it would be fair to reduce compensation on the basis that Mr Y should share blame for what happened.

Putting things right

I therefore think that Barclays should do the following;

(1) Refund Mr Y transaction 3,4,5,6,7 and 8
(2) Pay 8% simple interest per year on these payments from the date he paid them to the date of settlement (less any lawfully deductible tax).

My final decision

I uphold this complaint in part and require Barclays Bank UK PLC to refund Mr Y as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 21 February 2023.

Charlie Newton
Ombudsman