

The complaint

Mr O is unhappy that Monzo Bank Ltd has only decided to refund him 50% of his losses after he was the victim of an investment scam.

What happened

Mr O says a private investment trader was recommended to him by friend. He says he spoke to the trader over the phone and was shown performance of his previous trades. Mr O says he was promised returns of around 6-9% but has also mentioned a 10% increase on any amount he deposited. He says after seven months the full amount invested and earned, would be returned. Mr O says he was reassured that his deposit amounts would be returned until the end of the term.

Mr O says he carried out several checks before deciding to invest which included:

- Checking the company (on Companies house) in February 2021.
- He found the trader on LinkedIn and verified his account.
- He used trusted sources/websites to verify he was credible, and all reviews were positive.
- He looked at social media platforms and met him in person to verify he was genuine.

When asked if he checked if the trader was FCA authorised he said he wasn't aware what role the FCA would play. He says all contracts signed were physical paperwork and he couldn't provide a digital copy. The progress of investments was communicated via the website the trader used, which no longer works.

Mr O made five payments totalling £22,000, over the course of seven months, from December 2020 to June 2021.

Mr O says he realised it was a scam when the investments were due to mature, but the trader started making excuses and stopped communicating with him. The website Mr O had been able to access also stopped working. He says he started to hear about others being scammed. And groups were formed on social media to discuss experiences of being scammed by the same trader. Mr O told Monzo that the trader also scammed at least 18 other individuals and none of their investments were successful.

Monzo investigated Mr O's complaint. Whilst it isn't a signatory to the Contingent Reimbursement Model (CRM) it decided to apply the principles of the code. It concluded Mr O didn't take enough steps to check who he was paying and what for. But it also agreed it could have done more to protect Mr O. It decided to refund 50% of Mr O's losses. And as a gesture of goodwill Monzo credited Mr O's account with £25 as it felt it could have provided a better service.

One of our investigators looked into things. She said:

- She wouldn't be asking Monzo to refund Mr O's remaining losses.

- She considered the complaint with the CRM in mind, and she didn't think Mr O had a reasonable basis of belief for making the payments.
- She didn't think he carried out enough checks to ensure the investment was legitimate.
- Mr O had originally said he'd checked Companies House before deciding to invest but she could see the company wasn't registered at this time. Mr O later said he questioned this at the time and asked the trader and was told the company was in the process of being registered. The investigator said she thought it was unusual for Mr O to have decided to transfer £12,000 prior to the company being registered.
- Mr O said he met the trader in person – but this was sometime after he'd made payments. Mr O said the delay in meeting the trader face to face was because of various "lockdowns" during this period resulting from the pandemic, but they had video calls prior to meeting. And other friends and acquaintances had met him in person and shared their experiences before he'd transferred any money. The investigator said she appreciated that lockdowns would have impacted Mr O's ability to meet the trader in person prior to deciding to invest. And although Mr O said he'd had others share their experiences with him she didn't think he carried out sufficient checks overall before deciding to invest. Mr O said he did all he could to meet the trader in person and that should be considered.
- Mr O had been promised that "*under no circumstances was his capital at risk*" and this wasn't believable. She went on to say a genuine firm wouldn't make a guarantee like this.
- He was promised a monthly return of 10% which seemed too good to be true and should have raised suspicion. Mr O said the stock market had a boom during covid and a monthly return of 10% was achievable. She considered this further but said guaranteed returns each month of 10% didn't seem genuine, as investments fluctuated. Mr O said the trader said there were reserves to cover moments of losses and that's why the monthly 10% was guaranteed. And he says the returns were only in principle. He said in a video call the trader said the guarantees worked the same as an FCA guarantee. He said banks hold reserves in case of emergencies and the trader shared his reserves at the time and his client list and it all seemed sufficient at the time.
- As a result, the investigator decided both parties (Monzo and Mr O) should bear responsibility. Monzo agreed to a partial refund because it hadn't met the standards required under CRM code, but Mr O also didn't have reasonable basis of belief. She said the 50% refund from Monzo was fair in the circumstances.

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 done so, I've come to the same conclusions as the investigator for largely the same reasons. I think the current offer from Monzo is fair – to refund Mr O 50% of his losses. I'll explain why I think this.

Monzo is not a signatory to the CRM. But has decided to apply the codes principles here. The CRM 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.

As a starting point Monzo must first consider if it met the "firms standards" under the code - to provide an effective warning. If it didn't then it is required to refund Mr O's losses. Here Monzo says it didn't present Mr O with an effective warning when he made the payments as

part of this scam. And as a result it has agreed to refund Mr O 50% of his losses. I haven't gone on to consider the warnings as Monzo has already agreed to refund Mr O for this reason.

It is then 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

Here the investigator agreed with Monzo's position that Mr O didn't have a reasonable basis for believing that the payment was for genuine goods or services and/or the person with whom they transacted was legitimate.

I have carefully considered all Mr O's evidence and comments and I'm not satisfied that Mr O did have a reasonable basis for believing that the investment was legitimate.

I accept that Mr O was fully convinced by the trader to invest with him. But I don't think it was reasonably believable that it was legitimate. I'll explain why.

I can see that at the time the trader had a website and Mr O says it appeared genuine. The website can no longer be accessed so it's not clear what Mr O would have seen when it was live. I can see why a website and an accessible investment platform would have been a persuasive element to a scam like this. But there are several elements which make most of what Mr O was doing seem unlikely to be genuine.

- We haven't asked Mr O detailed questions about how he came to know of the trader. And Mr O hasn't been entirely clear on how he encountered him. So, we don't know if he was contacted by the trader when someone else passed on his details. Or if he contacted the trader following a recommendation. Either way Mr O said that he received a recommendation about the trader which he relied on.

Mr O hasn't said what was discussed as part of this recommendation which made the trader appear genuine. But when later asked if he knew of any successful investments with the trader he said no, and all other investors were scammed as well.

So, I'm not sure what recommendation could have been given to Mr O which persuaded him to invest such large sums of money— if at the time no-one else (to Mr O's knowledge) had received any returns on their funds. This is just one element which persuades me that Mr O didn't have a reasonable basis for believing this was a legitimate investment opportunity.

- At the time Mr O initiated contact with the trader the company was not registered on Companies House. But Mr O cited this as one of the checks he made before deciding to invest. It transpired that Mr O had made two payments prior to the company appearing on Companies House, totalling £12,00, which is over half of the total amount he invested. So, I don't think he did reasonably rely on the company registration as being a reason to decide to invest with the trader. Mr O has since gone on to say he did question this with the trader who said he was in the process of registering the company. But even if that was the case Mr O had already decided to invest £12,000 knowing the company wasn't registered.
- Mr O says he used trusted websites to check the trader was genuine and all reviews

were positive. But on one of the websites Mr O has mentioned I can only see three reviews in total. All of which are short and don't provide any detail. And I can see the trader still has a LinkedIn profile. But I'm not persuaded that the three reviews on one website plus the profile and social media checks are sufficiently persuasive that the trader was genuine or reliable.

- Monzo asked if Mr O had checked the FCA register to see if the trader was authorised to give financial advice. But he says he didn't know what role the FCA had to play here. I appreciate Mr O might not have heard of the FCA but it's not clear what reassurances the trader provided that his services were legitimate, regulated or that Mr O or his funds were protected in anyway. This is something I would have expected Mr O to be concerned about before deciding to invest.
- Whilst Mr O says he had video calls and phone calls with the trader, a significant volume of correspondence between the two of them is over WhatsApp and is informal. Whilst I appreciate Mr O had developed rapport and trust with the trader over a period, WhatsApp is not recognised as a professional platform to discuss investments. And I think Mr O ought to have had some concerns about this.
- I have seen a copy of a contract with the same trader and another individual (not Mr O). If Mr O's contract was the same or similar there is no mention of a fee or payment to the trader. And within the WhatsApp conversation between Mr O and the trader there doesn't seem to be any mention of this either. It would seem unusual that a trader wouldn't be asking for payment for the services being provided. It does also seem strange that Mr O doesn't have a copy of his own contract if he signed one.
- Mr O says the stock market had a boom during the time he was investing which is what made the investment returns seem reasonable. But Mr O hasn't said what he thought he was investing in to receive such a high return, other than it was in foreign exchange markets (which also differ to stock markets). Even if I were to agree that the returns weren't overtly high, I do agree with the investigator that the contract term - *"the security of the sum invested was guaranteed"* - is unrealistic. The contract I have seen says *"under no circumstances shall the capital invested be lost of unaccounted for"*. This seems too good to be true given it is widely appreciated that investment is associated with risk of loss.
- Mr O was sending money to the trader's personal bank account. Given these were such large sums of money and the trader claimed to be a limited company, it's not clear why Mr O didn't question this. And even if the trader had said it was because he was the director of the company it still wouldn't seem legitimate to send funds to a personal bank account in this way. Mr O ought to have been concerned by this.

I'm sorry Mr O has been the victim of a cruel scam. And I think he was hooked in by the scammer who persuaded him he could make good returns on his investments. But unfortunately, I think he didn't appreciate that much of what was being promised was either too good to be true or didn't quite add up. And, as such, I think it's fair that Mr O bears joint responsibility for his losses.

Under the CRM code if he didn't have a reasonable basis for believing what he was doing was for legitimate purposes then Monzo only needs to refund him 50% of his losses. And that's what it has done here. So, I won't be recommending that Monzo refunds anything further than it has already offered.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or

reject my decision before 22 March 2023.

Sophia Smith
Ombudsman