

The complaint

Ms K has complained that Lloyds Bank PLC (“Lloyds”) has refused to refund her money she lost as the result of a scam.

What happened

Ms K was looking to invest money and found an advertisement online for investing. Ms K signed up online with her contact details. She was subsequently contacted by a scammer who claimed to be a specialist in trading. As this was of interest to Ms K, the scammer proceeded to ask Ms K to download remote access software so they could “help” Ms K trade.

Ms K was convinced to make debit card payments to Plus Options which were as follows

Transaction Number	Date	Merchant	Amount	Running Total
1	13/07/2017	Plus Option	£250	£250
2	14/07/2017	Plus Option	£500	£750
3	17/07/2017	Plus Option	£2,500	£3,250
4	17/07/2017	Plus Option	£2,500	£5,750
5	17/07/2017	Plus Option	£5,000	£10,750

Ms K later attempted to withdraw her funds from Plus Options but she was unable to do so. Some years later Ms K realised that she had been scammed. Our Investigator considered Ms K’s complaint and thought it should be upheld. She thought that as there was an International Organization of Securities Commissions (“IOSCO”) warning over a month prior to the first transaction and as such it should have triggered Lloyds’s fraud prevention measures, and it should have stepped in at this stage to ask probing questions about the payments.

I issued a provisional decision on 30 August 2023 in which I said the following;

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

The circumstances of this complaint are not in dispute and the evidence provided by both Ms K and Lloyds set out what happened. What is in dispute is whether Lloyds should refund any of the money Ms K lost because of the scam.

Ms K has accepted she authorised the payments she made to Plus Option, so the starting point here is that Ms K is responsible for making the payments. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

I note that there was an FCA warning about Plus Option although the FCA's announcements came after Ms K made her payments, there were though warnings about the company on the International Organization of Securities Commissions' (IOSCO) website which pre-dated her payments. I note Lloyds' comments on this point as it says it does not use IOSCO but Lloyds should be aware of our approach that it is good industry practice for firms to have up-to-date watch-lists which cover the common types of scams and potential fraudsters and for those watch-lists to be communicated internally with staff within one month of an alert being posted by the FCA or IOSCO. Such an alert should automatically trigger its systems and lead to payments being paused, pending further intervention – such as making enquiries and/or giving a scam warning. Given the existing IOSCO warning I think Lloyds ought to have intervened when Ms K tried to make the first debit card payment.

So I believe at this stage, Lloyds should have stepped in and asked Ms K in depth questions to find out what the payments related to. Had Lloyds stepped in at this point, I think its likely Ms K would have explained the reason she was suddenly making payments from her card to Plus Option.

Lloyds would likely have discovered that Ms K was allowing a third-party access to her computer and that the funds sent to Plus Option were intended to be traded on her behalf by a third party. This has all the hallmarks of a scam. I'm satisfied that a warning to Ms K from her trusted bank would have probably alerted her to the common issues arising in relation to scams, which in turn would have revealed the truth behind the scammer's representations. This would have probably stopped Ms K in her tracks. So, but for Lloyds's failure to act on clear triggers of potential fraud or financial harm, Ms K probably wouldn't have continued to make the additional payments.

Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their actions. In this case, Ms K has confirmed that she did not do any research on Plus Option - which I would have expected someone to have done when making an investment with a company.

I can also see from the documents provided that Ms K was promised potential returns of over 100% in 30 Days, which is more than a little unrealistic. I can also see that Ms K was promised unrealistic cash bonuses that would make no sense for a professional company to offer, such as if Ms K invested £10,000 Plus Option would credit her a bonus of £5,000 and this would give her a potential pay out of £26,250. All of this sounds too good to be true. Even for an inexperienced investor, I think this ought to have prompted concerns and led Ms K to question what she was being offered, but it doesn't appear that any of these warning signs were acted upon. As a result, I intend to say that a deduction in compensation of 50% in recognition of Ms K's share of responsibility is warranted, which I consider to be fair and reasonable in the circumstances.

Putting things right

I currently intend to tell Lloyds Bank PLC, trading as Lloyds Bank, to do the following:

1) Refund 50% of the disputed transactions;

2) Pay simple interest on the above amounts at 8% per year, calculated from the date each payment was made, until the date of settlement (less any tax properly deductible)."

In response to my decision Ms K did not disagree, Lloyds responded and raised a number of points, these included:

- The IOSCO warning is not sufficiently detailed and different variations of the company name do not bring up the same warning and it would not be fair or reasonable to draw a conclusion that a UK based bank would be able to act with such limited context and without comprehensive evidence
- They have limited ability to prevent debit card payments
- There was no FCA warning until after the transactions.

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 stress that I have considered all of the points that both parties raised but I will focus on what I think is most relevant to the outcome of this complaint.

Lloyds has argued that IOSCO warning was not sufficiently detailed as the name featured on Ms K's statement wasn't an exact match for the name featured in the IOSCO warning. I accept the company name is shown differently on the statement, but I don't think that a hyphen in the name is enough of a difference to have made Lloyds think that the warning related to a different company. I think Lloyds systems should reasonably have detected that the name was practically identical to one with an IOSCO warning and should have, at the very least, prompted a conversation with the consumer prior to the transactions being approved.

Lloyds has said that it has limited ability to prevent debit card payments, but it can stop them if it believes that there is a possibility of fraud or a scam.

I accept that there was no FCA warning at the time, but for the reasons given above, I think that an IOSCO warning was sufficient to prompt a conversation with Ms K.

I also remain of the opinion that had a conversation occurred Ms K would have explained what she was doing and Lloyds would have been able to highlight that it was likely that she was being scammed. I say this because a probing and detailed conversation would have uncovered that Ms K was buying crypto that she was forwarding on to a "trading" platform and that she had allowed third party access to her computer. All of this points towards a scam. So whilst I note that the IOSCO warning relates to Australia I think it was enough to at the very least prompt a discussion with Ms K and I think a warning at this point from her trusted bank would have stopped Ms K from investing.

So for the reasons above and in my provisional decision I think that this complaint should be upheld in part.

Putting things right

Lloyds Bank PLC, trading as Lloyds Bank should do the following:

- 1) Refund 50% of the disputed transactions;

2) Pay simple interest on the above amounts at 8% per year, calculated from the date each payment was made, until the date of settlement (less any tax properly deductible).

My final decision

For the reasons given above, my decision is that I uphold this complaint in part and require Lloyds Bank PLC, to put matters right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 26 October 2023.

Charlie Newton
Ombudsman