

## **The complaint**

Mr S complains that Clydesdale Bank Plc (trading as “Virgin Money”) won’t refund £15,000 he lost to a cryptocurrency investment scam in September 2022.

The details of this complaint are well known to both parties, so I won’t repeat everything again here. Instead, I will focus on giving the reasons for my decision.

## **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 agree with the conclusions reached by the investigator for the following reasons:

- It isn’t in dispute that Mr S authorised the disputed payments he made to his Binance wallet using his Virgin Money debit card (where his funds were subsequently transferred on to the scammers from his crypto wallet). The payments were requested using his legitimate security credentials provided by Virgin Money, 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 Virgin Money should have done more to prevent Mr S 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.
- It’s accepted that some of the payments were considered unusual in this case given they did trigger the bank’s fraud prevention systems and were automatically blocked pending further enquiry – such as those made on 9 September 2022 and 3 October 2022. Accordingly, it’s just a question of whether the bank went far enough in all the circumstances with its interventions.
- Having listened to the calls Virgin Money had with Mr S, I accept that it could have gone further in its questioning to reasonably determine whether he was at risk of falling victim to a scam. But even accepting this as the case, I’m not persuaded any such further questioning would have ultimately uncovered the scam and prevented the loss in any event.
- When Virgin Money spoke to Mr S about the £5,000 payment he was making on 3 October 2022, it asked him whether a broker had provided him with any advice about the investment, whether he had been asked to download remote access software, and whether he’d been told to make the payment by anyone else. Mr S replied ‘No’ to all of these questions, despite being in contact with a broker, who was instructing him to make the payments, and who had also asked him to download remote access software. So, it’s clear that Mr S was not forthcoming or willing to provide accurate/honest answers in response to Virgin Money’s questions.

- I accept that Mr S may have likely been coached to lie to the bank if he was ever questioned about the payments. Mr S's representatives have said that he hadn't been coached or manipulated until later on during the scam, such that he would've been truthful if Virgin Money had questioned him sooner. However, having considered the correspondence between Mr S and the scammer, there's little evidence to support this. And given he wasn't honest when questioned on 3 October 2022, it leads me to believe he would've likely done the same thing if questioned further on 9 September 2022.
- Therefore, I don't think Virgin Money's failure to probe further on the initial call it had with Mr S can be considered the proximate cause of his loss in these circumstances. As such, I don't consider it would be fair and reasonable to hold Virgin Money liable for failing to prevent the scam.
- I also don't think there was anything more Virgin Money could've done to recover the money Mr S lost. In terms of the debit card payments, a chargeback claim would've had little prospect of succeeding, for example, given Mr S would've received the asset he had purchased (i.e. the cryptocurrency).

I appreciate this will likely come as a disappointment to Mr S, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded Virgin Money can fairly or reasonably be held liable for his loss in these circumstances.

### **My final decision**

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 April 2024.

Jack Ferris  
**Ombudsman**