

The complaint

Mr K complains that Lloyds Bank PLC (“Lloyds”) won’t refund around £40,000 he lost to an investment scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here. In brief summary, Mr K fell victim to an investment scam in August 2022. He became friends with an accountant (“the scammer”) on social media, who encouraged him to invest in a platform called “Cboe.mobi”. He then proceeded to make the following payments to his Binance wallets, where his funds were subsequently transferred on to the scammer:

No.	Date	Amount	Payee	Method
1	22/08/2022	£2.00	Binance (Skrill)	Bank Transfer
2	23/08/2022	£500.00	Binance	Card payment
3	24/08/2022	£1,500.00	Binance	Card payment
4	24/08/2022	£10.00	Binance (Skrill)	Bank Transfer
5	24/08/2022	£1,990.00	Binance (Skrill)	Bank Transfer
6	25/08/2022	£3,000.00	Binance	Card payment
7	26/08/2022	£5,000.00	Binance (Skrill)	Bank Transfer
8	26/08/2022	£2,500.00	Binance (Skrill)	Bank Transfer
9	30/08/2022	£10.00	Binance (Skrill)	Card payment
10	30/08/2022	£15.00	Binance	Card payment
11	05/09/2022	£9,000.00	Binance (Skrill)	Bank Transfer
12	13/09/2022	£200.00	Binance (Skrill)	Bank Transfer
13	14/09/2022	£4,300.00	Binance (Skrill)	Bank Transfer
14	15/09/2022	£500.00	Binance (Skrill)	Bank Transfer
15	15/09/2022	£3,500.00	Binance (Skrill)	Bank Transfer
16	15/09/2022	£150.00	Binance (Skrill)	Bank Transfer

17	15/09/2022	£1500.00	Binance (Skrill)	Bank Transfer
18	15/09/2022	£1350.00	Binance (Skrill)	Bank Transfer

Mr K realised he had been scammed when he was asked to pay a significant sum in fees to be able to withdraw his money. He reported the fraud to Lloyds and said it should have done more to protect him, but it refused to refund the money he lost as he had authorised the payments.

Our investigator didn't uphold Mr K's complaint. She didn't think the payments would've appeared particularly unusual in light of his previous account activity, so she didn't think there was any cause for Lloyds to intervene and question him about the payments. Mr K disagreed, so the matter was escalated to me to determine.

I issued my provisional decision on this complaint in November 2023. I said I was minded to uphold it and set out the following reasons:

It isn't in dispute that Mr K has fallen victim to a cruel scam here, nor that he authorised the disputed payments he made to his Binance wallet (where his funds were subsequently transferred on to the scammer). The debit card and faster payments were requested using his legitimate security credentials provided by Lloyds, 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 Lloyds should have done more to prevent Mr K 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.

Lloyds says that none of the payments Mr K made would have appeared as unusual. And having considered the first 16 payments he made as part of the scam, I'm inclined to agree. I say this because Mr K had already made payments to Binance prior to the scam in June and July 2022, so it was already an established payee on the account. He had also previously made payments as large as £7,500 in August 2022 from his account, which was the same month he started making payments to the scammer. I appreciate that one of the payments Mr K made to Binance was larger than this at £9,000. But I don't consider it to have been significantly larger than other payments he'd made previously, such that it ought to have been regarded as suspicious or indicating that he might have been at risk of falling victim to a scam.

However, I do consider the activity on the account to have become increasingly unusual and suspicious by 15 September 2022 when Mr K started making multiple bank transfers to Binance on the same day, where he made five transfers totalling £7,000. Lloyds ought reasonably to have been aware that making multiple payments to the same payee in quick succession is often indicative of fraud. There would be very little reason for someone to have to make so many payments to the same payee, other than to try and avoid detection. So, I'm satisfied that by the fourth payment Mr K made that day for £1,500, there was enough suspicious and unusual activity to have warranted an intervention by Lloyds.

I appreciate there was an earlier occasion where three payments were made on 24 August 2022. But this was across two different payment methods, which would have also shown up as different payees (i.e. "Binance" and "Skrill"). The amount

cumulatively wouldn't have appeared overly unusual either, so I'm not persuaded there's enough here to justify Lloyds blocking any of the payments made that day. But, for the reasons I've explained above, I do consider Lloyds should have intervened by the time Mr K made the fourth payment to Binance on 15 September 2022.

If Lloyds had asked Mr K what the payments were for and the basic surrounding context, I consider it likely he would have fully explained what he was doing. It could have discovered that he had been encouraged to invest by someone that had contacted him out of the blue on social media, that was telling him to make payments through cryptocurrency when he was under the impression he was investing in stocks. These are common hallmarks of these sorts of investment scams, so I consider there would have been reasonable grounds for suspicion here. So, Lloyds ought reasonably to have provided a scam warning.

If Lloyds had given a warning, I believe that Mr K would have paused and looked more closely into the trading platform before proceeding. It seems likely he would have made further enquiries into cryptocurrency scams and whether or not Cboe.mobi was regulated in the UK or abroad. Mr K could have discovered they were not, and I'm satisfied it's more likely than not that he wouldn't have continued to make any further payments. So, but for Lloyds' failure to act on clear triggers of potential fraud or financial harm, Mr K would probably have not gone on to make the final two payments on 15 September 2022. I therefore intend asking Lloyds to refund these payments.

Contributory negligence

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). I have duly considered whether Mr K should bear some responsibility by way of contributory negligence in this case, but I'm not persuaded it would be fair to reduce compensation in this instance.

I accept that Mr K doesn't appear to have carried out sufficient due diligence before choosing to part with his money. But having carried out my own research, it doesn't appear that he would have found any adverse information about 'Cboe.mobi' even if he had conducted his own checks at the time he chose to invest. The scammer also wasn't purporting to be from a fraudulent investment brokerage that he could have checked, so there was nothing he could have reasonably done to research the credentials of the person he was speaking to either.

Mr K was under the impression that he was investing in stocks and he was told to expect returns of around 20%. And while this would certainly be a significant return for the stock market, I don't consider it to have been totally unrealistic in this context, such that he ought to have considered it as too good to be true.

All in all, I am satisfied there was no contributory negligence on this occasion and Mr K was simply the unwitting and blameless victim of a clever fraudster. The bank was the professional in financial matters; Mr K was a layperson. Therefore, I do not consider it would be appropriate to reduce compensation in these circumstances.

Recovery

I've also considered whether Lloyds did enough to try and recover the funds after the fraud was reported. However, there wouldn't have been any successful prospect of a

chargeback for the debit card payments made to Binance, as Mr K would have received the services he paid for. In terms of the faster payments, we know that these were transferred to Mr K's own wallet with Binance before being swiftly moved again to the scammer, so there would have been no reasonable prospect of Lloyds being able to recover any money from the receiving account either. Overall, I'm not persuaded there were any other steps Lloyds could have reasonably taken to try and recover Mr K's money in these circumstances.

I invited further comments and evidence from both parties. Lloyds responded accepting my provisional conclusions and agreed to settle the complaint in the way I had proposed. Mr K responded and said he thought Lloyds should have intervened sooner than payment 17.

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've also taken into consideration Mr K's point around where Lloyds ought to have intervened. I understand why Mr K may be disappointed with the outcome. However, I set out my reasons for why I didn't think any of the payments prior to payment 17 would have appeared overly unusual, and I've not been provided with any further comments or evidence that would alter this conclusion.

As a result, and given that Lloyds also had no further comments, I see no reason to depart from the conclusions reached in my provisional decision.

My final decision

For the reasons given above, I uphold this complaint and direct Lloyds Bank Plc to:

- Refund payments 17 and 18 listed in the table above (totaling £2,850).
- Pay 8% simple interest per annum on this amount from the date of loss until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 27 December 2023.

Jack Ferris
Ombudsman