

The complaint

Mr and Mrs B complain that National Westminster Bank Plc won't refund the money they lost when they were the victims of what they feel was a scam.

What happened

In mid-2016, Mr and Mrs B were introduced to an investment company by agents they knew. They were told there was an opportunity to invest in a foreign exchange trading scheme operated by the investment company. And after being sent documents about the scheme and meeting with the agents at their offices, Mr and Mrs B decided to go ahead and invest. Over the next few years they then sent a number of payments to account details they were given for the investment company, as I've set out below:

Date	Details	Amount
29 July 2016	1 st account details	£30,023
3 February 2017	2 nd account details	£50,023
27 July 2018	3 rd account details	£50,023

Mr and Mrs B say they initially received the interest payments they were told they would receive from the investment company, but unfortunately these payments then stopped. And after receiving a number of excuses from the investment company about what was happening, they then found out the company was being wound up and reported the payments they had made to NatWest.

NatWest investigated but said it felt it had acted in accordance with its legal and regulatory obligations. It didn't think it had reasonable grounds to suspect the payments were fraudulent and didn't think it had made an error, so didn't agree to refund the money Mr and Mrs B had lost. Mr and Mrs B weren't satisfied with NatWest's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think anything we would reasonably have expected NatWest to do would have uncovered the risk of a scam or stopped Mr and Mrs B making the payments. So they didn't think NatWest should have to refund the money Mr and Mrs B had lost. Mr and Mrs B disagreed with our investigator, so the complaint has been passed to me.

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.

Banks are expected to make payments in line with their customers' instructions. And Mr and Mrs B accept they made the payments here. So while I recognise they know feel they have been the victims of a scam, they did authorise the payments. And so the starting position in law is that NatWest was obliged to follow their instructions and make the payments. So Mr and Mrs B aren't automatically entitled to a refund.

However, the regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think NatWest should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

And so I've also considered whether NatWest should have identified that Mr and Mrs B were potentially at risk of financial harm from fraud as a result of any of these payments, and what difference this could have made.

Did NatWest do enough to protect Mr and Mrs B?

Mr and Mrs B have argued that the size of these payments was out of character for them, and so NatWest should have intervened and asked questions about them before allowing them to go through. And I agree that NatWest should have identified that Mr and Mrs B were potentially at risk of financial harm as a result of these payments and carried out additional checks before allowing them to go through.

Due to the time that has passed since the payments were made, NatWest hasn't been able to send us evidence of the checks that were carried out on these payments. And Mr and Mrs B have said they weren't given any warnings by NatWest before the payments were made. So I think it's possible NatWest didn't do the checks we'd expect it to have done before allowing these payments to go through.

But even if NatWest had done what we'd expect and carried out additional checks on the payments Mr and Mrs B were making, I don't think any significant concerns would have been uncovered or that it would have stopped the payments being made.

Banks should take steps designed to protect their customers from the risk of financial harm. And, in these circumstances and given the size of the payments, I think it would be reasonable to expect these checks to include questions about the purpose of the payments and then relevant follow-up questions about how Mr and Mrs B found out about the investment they were making and the returns they'd been told they could make.

But Mr and Mrs B have told us they found out about the investment through some agents they knew previously. They've said they weren't cold-called and held a number of in-person meetings with the agents at their offices where they discussed the investment. So I don't think this will have seemed like an unusual or suspicious way to find out about an investment.

Mr and Mrs B also told us they were given a number of documents about the investment company and the investment itself, including performance figures and verification of accounts. And I've seen some of these documents, which I think look reasonably genuine

and professional. The explanation Mr and Mrs B were given about how the investment worked and the returns they could expect to receive also seemed plausible and not too good to be true. So I don't think anything Mr and Mrs B were told about the investment will have seemed suspicious either.

The investment company was listed on the government's register of limited companies, and had been for a number of years before the investment Mr and Mrs B were making. And Mr and Mrs B have said they checked the FCA's website and there were no warnings on it for the company at the time either. So I think it will have seemed to NatWest that Mr and Mrs B had done some of their own research into the investment company and the company will have sounded legitimate.

For the second and third payments they made, Mr and Mrs B have also said they had received payments of the returns they were expecting. And so this will have further reinforced that the company and the investment seemed genuine and legitimate.

So, even if NatWest had carried out additional checks before allowing the payments to go through, I think the answers and information Mr and Mrs B gave it would have satisfied any concerns it should reasonably have had. I don't think it would have uncovered any significant concerns about the payments and I don't think it would have been unreasonable for it to allow the payments to go through.

Mr and Mrs B have argued there was an FCA warning about foreign exchange trading at the time the payments were made, and that NatWest could have asked about whether the investment company was regulated by the FCA. But from what I can see, the FCA warning about foreign exchange trading was first published after the first two payments Mr and Mrs B made. And by the time they made the third payment, Mr and Mrs B had invested with the company for nearly two years and received the returns they were expecting. So, given this and the other seemingly genuine information about the company and the investment, I don't think it would have been unreasonable for NatWest to still allow the payment to go through.

I sympathise with the position Mr and Mrs B have found themselves in. I appreciate that they have lost a significant amount of money and I'm in no way saying they did anything wrong or that they don't have a legitimate grievance against the investment company. But I can only look at NatWest's responsibilities. And, for the reasons I've explained above, I don't think anything I would reasonably have expected NatWest to have done would have uncovered the scam or prevented them from losing the money they did.

So I don't think it would be fair and reasonable to require NatWest to refund the money Mr and Mrs B have lost.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 16 February 2024.

Alan Millward
Ombudsman