

## **The complaint**

Mr H complains about Bank of Scotland plc trading as 'Halifax'.

He says that he has fallen victim to a scam and would like Halifax to refund him the money he has lost as a result.

## **What happened**

Mr H says that he has fallen victim to a scam investment with 'B' which was introduced to him by an individual while he was at work.

He says that he was mis-advised on how the money was invested, the level of risk involved, and the legitimacy of the investment opportunity.

Mr H says that Halifax didn't do enough to protect him from the scam and would like it to refund him the money he has lost as a result, which he says is £16,812.

Mr H complained about what happened to Halifax, but it didn't uphold his complaint, so he brought his complaint to this Service.

Our Investigator looked into things but didn't think that the complaint should be upheld. They said that there wasn't enough evidence to say that Mr H had been scammed but instead it was likely Mr H had put money into a high risk investment which hadn't turned out as planned.

Mr H asked for an Ombudsman to make a final decision, 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.

Having done so, I have decided not to uphold this complaint. I know this will be disappointing for Mr H, so I'll explain why.

It isn't in dispute that Mr H authorised the disputed payments he made to B. The payments were requested by him using his legitimate security credentials provided by Halifax, 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 Mr H says that he has been the victim of a scam.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk investments that resulted in disappointing returns or losses.

Certain high-risk investment traders may have promoted these products using sales methods that were arguably unethical and/or misleading. However, whilst customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself, or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

In simpler terms, some merchants may have used sales and promotional methods that could be seen to be unfair by consumers considering the losses they've incurred – but this does not always amount to fraud.

In considering Mr H's case, I have taken into account official organisations that publish warnings about merchants that operate in the UK and abroad – including the Financial Conduct Authority (FCA) and the Investor Alerts Portal of the International Organization of Securities Commissions (IOSCO). Neither organisation holds any adverse information about B.

I have taken into account other evidence which may suggest that B is running as a scam – and could be reasonably regarded as fraudulent – but while some of this information could be seen as negative, it is not in itself sufficient evidence of fraud.

B is also still listed on Companies House – and its website is still live. And while I can see that there have been several 'strike-off' actions against it, all of these have been suspended or discontinued.

I know that some banks now don't allow the types of transactions Mr H made because of the risks involved – but this is a commercial decision and does not mean that all such transactions are fraudulent or linked to a scam.

Halifax also has no obligation to protect its customers from bad bargains or to provide investment advice. So, given the circumstances here, I don't consider Halifax was under any obligation to prevent these payments from being made.

Finally, I have considered if Halifax ought to have done anything to try and recover the funds on behalf of Mr H – but as I have decided that B wasn't running as a scam, but as a legitimate (albeit high risk) investment, I cannot say that there would be any prospect of success for trying to do so.

I am very sorry for what has happened here, and I understand how upset Mr H is about what has gone on, but I am unable to uphold this complaint, or ask Halifax to refund him for the reasons set out above.

It is possible that further evidence may come to light at a later date, which may indicate B was operating a scam. Should such evidence come to light, then Mr H can complain to Halifax again, and refer the matter to this office, should he not be happy with the outcome.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 3 April 2025.

Claire Pugh  
**Ombudsman**