

The complaint

Mr F has complained that TSB Bank plc won't refund the money he lost in an investment scheme which he says was a scam.

What happened

In mid-2018, Mr F made a £10,000 bank transfer to an investment firm. He didn't receive his expected returns. In 2022, the firm went into administration, and later into liquidation. Mr F says he lost most of his money.

In 2023, Mr F complained to TSB, saying that the firm had been running an investment scam. TSB didn't think they were liable for Mr F's loss.

Our investigator looked into things independently and didn't uphold the complaint. Mr F didn't agree, so the complaint's been passed to me to decide.

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 understand that Mr F lost a substantial sum of money here, and so he has my sympathy. I appreciate this can't have been an easy matter for him to face, and I appreciate why he feels that his money should be returned. It's worth keeping in mind that it's the investment firm who's primarily responsible for what happened. But I can only look at what TSB are responsible for. Having carefully considered everything that both sides have said and provided, I can't fairly hold TSB liable for Mr F's loss. I'll explain why.

It's not in dispute that Mr F authorised the payment involved. So under the Payment Services Regulations, he is liable for the loss in the first instance. And broadly speaking, TSB had an obligation to follow his instructions – the starting position in law is that banks are expected to process payments which a customer authorises them to make.

TSB should have been on the lookout for payments which could be the result of fraud or scams, to help prevent them. But a balance must be struck between identifying and responding to potentially fraudulent payments, and ensuring there's minimal disruption to legitimate payments. I've thought carefully about whether TSB should have done more in Mr F's case.

In the months leading up to this matter, Mr F had made a number of payments of similar or higher value, so this was not especially out of character for his account. His representatives pointed out that he funded the payment after a transfer from his savings. But it's quite normal to occasionally make large payments with one's savings – indeed, that's often the purpose of saving up. This was a payment to a UK account of a registered UK business, it was not a series of many rapid payments, it did not empty the account, and it was authorised by the genuine customer. Overall, I don't think the payment was so unusual or out of character that TSB needed to intervene.

Further, even if TSB had flagged the payment and spoken to Mr F about it in more detail, it doesn't seem very likely that they would have uncovered a scam or prevented the loss. While the investment was unregulated, unregulated investments can still be legitimate. And the return Mr F was offered, while high, was not so unusual as to be evidence of a scam, especially for a higher-risk investment like this. TSB were not giving Mr F tailored investment advice, so I would not have required them to read through the firm's documents for Mr F, or to investigate the director's personal history as his representatives suggested. Back in mid-2018, this was an active registered UK business with no public warnings against it. The administration started years later, as did the proposed action from unhappy investors. The earliest warnings that I or Mr F's representatives could find were from late 2019, almost a year and a half after the payment in question. So I don't have enough to conclude that TSB should've uncovered a scam or that they should've reasonably foreseen harm coming to Mr F by allowing this payment through back in mid-2018.

Next, I've considered what TSB did to try to recover Mr F's money after he told TSB he thought this was a scam. However, Mr F only reported this over 5 years after the fact, by which point the firm had gone into liquidation. So there wasn't really anything that TSB could reasonably do to recover his funds at that point. Mr F may wish to register a claim with the firm's administrator, if he's not done so already.

So while I'm very sorry to hear about what happened to Mr F, I don't think TSB should be held responsible for his loss. And so I can't fairly tell TSB to refund Mr F's money in this case.

My final decision

For the reasons I've explained, I don't uphold this complaint.

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

Adam Charles
Ombudsman