

## The complaint

Miss I has complained that Lloyds Bank PLC won't refund the money she lost after falling victim to a scam.

## What happened

Miss I was recommended a cryptocurrency investment firm by a friend. She said she did not do any further research. In early 2023, Miss I made a series of payments to the firm, by sending money from her Lloyds account to her cryptocurrency account, then onto the firm. She paid the crypto firm around £10,000 in total, and received about £500 in returns. However, the firm turned out to be running a scam, and Miss I lost the rest of the money.

Lloyds didn't think it was liable for Miss I's loss. Our investigator looked into things independently and didn't uphold the complaint. Miss I appealed, so the complaint's been passed to me to decide.

I sent Miss I and Lloyds a provisional decision on 3 June 2024, to explain why I thought the complaint should be upheld in part. In that decision, I said:

*First, while I understand that Miss I would like us to change Lloyds' processes, I should clarify that we're not the regulator – that's the Financial Conduct Authority (FCA). So we don't oversee how businesses work across the board, nor set their processes. Instead, we look at individual complaints about individual situations. So I'll keep my decision focused on the merits of this particular case.*

*I understand that Miss I fell victim to a scam, and that she was going through a truly tough time more generally, for which she has my sympathy. I appreciate this can't have been an easy matter for her to face, and I appreciate why she feels her money should be returned. It's worth keeping in mind that it's the scammers who are primarily responsible for the scam, and who really owe Miss I her money back. But in this case against Lloyds, I can only look at what Lloyds are responsible for.*

*There's no dispute that Miss I authorised the payments involved, even if she didn't intend for the money to go to scammers. So under the Payment Services Regulations and the terms of her account, Miss I is liable for the loss in the first instance. But the matter doesn't end there.*

*Taking into account the law, regulator's rules and guidance, relevant codes of practice, and what I consider to have been good industry practice at the time, I consider that Lloyds should have fairly and reasonably:*

- *Monitored accounts and payments to counter risks such as fraud and scams;*

- *Had systems in place to look out for particularly unusual transactions or other signs its customers were at risk of fraud;*
- *In some circumstances, taken further steps or made further checks before a payment went out, or even blocked it, to help protect customers – irrespective of the type of payment involved.*

*While the first few payments were not sufficiently large or out of character for me to expect Lloyds to have intervened, I agree with our investigator that Lloyds should have spoken to Miss I about the final payment of £8,000 in February 2023. That was a very large payment, it was not particularly in line with Miss I's normal spending, it emptied her account, and it went to a cryptocurrency platform. And by 2023, the Financial Conduct Authority (FCA) and Action Fraud had published warnings about cryptocurrency scams, so Lloyds should've had a good understanding of the risk of these scams and how they work. I think that the £8,000 payment stood out as being notable and should have prompted Lloyds to intervene.*

*Had Lloyds intervened when Miss I made the £8,000 payment and asked reasonable questions, it seems most likely that it could have uncovered the scam and stopped any further loss. This was an unregulated crypto firm offering completely unrealistic returns based on a fully automated process, claiming it would make weekly returns equivalent to several hundred percent per year and claiming it never made a weekly loss overall. It offered unreasonably generous recruitment bonuses and encouraged social media engagement in the way a multi-level marketing scheme typically would. It imposed a large penalty for withdrawals in the initial months, a long timeline for withdrawals, and had frozen withdrawals entirely at the time of the £8,000 payment. Looking at what a simple internet search would have likely produced back in February 2023, it seems there were quite a few prominent negative reviews and scam warnings pre-dating Miss I's payment. Indeed, not long before her £8,000 payment the crypto firm had been issued with a cease trade order and a warning to consumers from Canadian officials, based on alleged breaches of securities law and illegal distribution of securities. And in the USA it was issued with a desist and refrain order for targeting investors with little to no experience, operating like a multi-level marketing scheme, making false representations, and failing to disclose key information. The matter bore many hallmarks of a prominent scam, so it seems most likely that Lloyds would've been able to identify what was happening and prevent the payment.*

*I've seen nothing to suggest that Miss I would not have been honest about why she was spending this money – she thought she was making a genuine investment and she hadn't been told to lie if questioned. And it seems more likely than not that Miss I would have listened to Lloyds – it is a well-known name in banking and she accepted she had no prior investment experience.*

*So I currently think that Lloyds bears some liability for Miss I's loss from the £8,000 payment.*

*I've also thought carefully about Miss I's role in what happened. I do understand that she was recommended the crypto firm by a friend, and that she was going through a very tough time. But I'm afraid I think Miss I ought to have had more concerns along the way about this crypto firm. For example, she had not done any due diligence, a simple internet search would've revealed that the firm was in serious legal trouble and was likely operating a scam, the firm had disallowed withdrawals entirely by the time Miss I paid in the £8,000, and the returns on offer were too good to be true. I think Miss I now accepts that she did not have a reasonable basis on which to believe that this was a legitimate investment. So I don't think I can fairly hold Lloyds solely responsible for Miss I's loss from the £8,000 payment. I think Miss I should also bear some responsibility for that loss.*

*I've also considered what Lloyds did to try to recover the funds. But as they went from Lloyds to a cryptocurrency account in Miss I's name in her control, there was nothing more that Lloyds could really do to return that money.*

*Lastly, I appreciate that it was initially difficult for Miss I to speak to the appropriate team at Lloyds, and that Lloyds sent her someone else's letter by mistake once. However, I don't see that these mistakes had much material impact on Miss I (as opposed to, e.g. the person whose letter was sent). And while I understand where Miss I is coming from, I don't agree that this reflects particularly strongly on how Lloyds handled the scam – sending complaint letters and monitoring fraud are two very different and rather separate functions. I think that the £55 compensation that Lloyds paid Miss I for those customer service issues was fair.*

In response to the provisional decision, Miss I accepted it, and Lloyds let us know that it had no further comments or evidence to add.

### **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.

Neither side have sent me any new evidence or arguments. So having reconsidered the case, I've come to the same conclusion as before, and for the same reasons as set out in my provisional decision above.

### **Putting things right**

I direct Lloyds Bank PLC to:

- Refund 50% of the £8,000 payment, less 50% of the returns that came back.
- Add simple interest at the rate of 8% simple per year onto the refund, payable from the date the £8,000 payment debited until the date it's refunded.

If Lloyds considers that it's required by HM Revenue & Customs (HMRC) to deduct tax from that simple interest, it should tell Miss I how much tax it's taken off. It should also give Miss I a tax deduction certificate if she asks for one. Miss I may be able to reclaim the tax from HMRC if she doesn't normally pay tax.

**My final decision**

I uphold Miss I's complaint in part, and direct Lloyds Bank PLC to put things right in the way I set out above.

If Miss I accepts the final decision, Lloyds Bank PLC must carry out the redress within 28 days of the date our service notifies it of the acceptance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss I to accept or reject my decision before 9 July 2024.

Adam Charles  
**Ombudsman**