

The complaint

Mr and Mrs B complains about Clydesdale Bank Plc trading as Virgin Money ("Virgin"). They say it failed to protect them from a scam and would like it to refund them the money they lost.

Mr and Mrs B's complaint has been referred to this service by a professional representative but for the sake of readability, I will mainly just refer to Mr and Mrs B.

What happened

In 2018, Mr and Mrs B were looking to make an investment and was introduced to a company I will refer to as 'A'.

A advised Mr and Mrs B to make three investments. I will call these investments C,D and E.

C was purported to be a forex trading firm. Mr and Mrs B were told that if they took out a loan note with C they would be paid a fixed monthly return of 2% a month. They made three payments of £25,000 via transfer on 3 August 2018, 10 September 2018 and 21 January 2019. They received returns of 2% a month until the payments stopped after May 2019.

Meanwhile they were introduced to D which purported to be a Care Home company. The idea was that Mr and Mrs B would purchase a suite in a Care Home that they would be given an annual return of between 8 and 10% and would be able to sell the room in the future as part of a guaranteed buyback. Mr and Mrs B made two payments to D one of £2,000 on 2 October 2018 and the other of £99,000 on 12 October 2018, these were both made via international bank transfer. They received returns from this investment until the payments stopped in October 2020. They were told by a third party that this was due to D not paying its rent.

Additionally, to the above A introduced Mr and Mrs B to E which seems to be a forex trading platform and the idea is that Mr and Mrs B were going to use a trading robot to trade for them. They made a payment to E of £25,000 on 9 May 2019 and £20,000 on 25 September 2019 via transfer. They say that they were told by E that they needed to make further payments to secure their trades and they say that they eventually realised they had lost the amount that they had invested.

Our Investigator looked into things they were not satisfied that C, D and E were scams so Virgin did not need to intervene. But even if Virgin had intervened it would not have stopped the payments in question.

Mr and Mrs B's representatives responded to the view saying they and Mr and Mrs B disagreed with the Investigator. As an informal agreement could not be reached, the complaint has been passed to me for a final decision.

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.

Mr and Mrs B's representatives have written at some length about the issues surrounding this case. I may not comment on everything they have told us, nor every individual point raised. I want to reassure both parties though that this doesn't mean I consider things unimportant, nor that I haven't reviewed everything. While I've carefully thought about all of the information on the case, I'm going to focus on what I consider the crux of this complaint and the key facts. This reflects the informal nature of our service.

It isn't in dispute that Mr and Mrs B authorised the payments they made. Because of this, the starting position – in line with the Payment Services Regulations (PSR's) 2017 – is that they are liable for the transaction.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. But there are circumstances when it might be fair and reasonable for a firm to reimburse a customer, even when they have authorised a payment.

In this instance, the main issues for me to consider is should Virgin have intervened and asked questions about the payments and would that have uncovered that Mr and Mrs B were being scammed.

Scam C

In relation to Scam C, I do not think that Virgin needed to intervene at all, Mr and Mrs B had made large payments prior to these payments and I don't think the payments were sufficiently out of character to prompt an intervention.

That said even had Virgin intervened, and I don't think it needed to, the type of questions I'd expect Virgin to have asked would include: how Mr and Mrs B found the investment, what return they had been offered and what checks they had done. Virgin also may have asked what documentation Mr and Mrs B had received in relation to the investment.

But, even if Virgin had asked the type of questions I would've expected, I'm not satisfied that it would've prevented Mr and Mrs B from making the payments or prevented their loss.

They would have just discovered that Mr and Mrs B had been introduced to C and were going to provide a loan to C for a fixed return. Also all of the information available about C at the time of the payments, suggested that this was a legitimate investment. With the benefit of hindsight, I can see that C seem to have been lending funds to a third party who have since been uncovered as running a Ponzi scheme. But I don't think this would have been apparent to Virgin at the time or it would have been reasonable for it to go through Mr and Mrs B documentation to that extent.

Moreover, the scam looked legitimate and did pay out 2% per month for a number of months so I don't think that it would have been apparent to Virgin that C was a scam.

So, even if Virgin had asked open probing questions, I not satisfied that they would've been concerned by the information Mr and Mrs B would've given them. On that basis, I don't think they acted unreasonably in processing Mr and Mrs B's payment instructions, and I'm not satisfied that they could've prevented their loss.

Scam D

Given that the second payment to D was for £99,000 I would have expected Virgin to have asked questions about this payment. That said I don't think that this would have prevented the payments from being made. I say this because all of the information available about D at the time of the payments, suggested that this was a legitimate investment and that D was offering an investment in Care homes. The returns promised were not completely unrealistic and the documentation looked professional and comprehensive and from searching online it seems that D was part of the Care home business.

So, even if Virgin had intervened and asked open probing questions, I not satisfied that they would've been concerned by the information Mr and Mrs B would've given them. On that basis, I don't think they acted unreasonably in processing Mr and Mrs B's payment instructions, and I'm not satisfied that they could've prevented their loss.

Scam E

By the time the payments were made to Scam E Mr and Mrs B had a history of making large payments from their account. Given this I don't think that Virgin needed to query these payments.

For the sake of completeness from the limited information about this scam I am unsure what the scam actually was or exactly what was promised. On the face of it Mr and Mrs B purchased a trading robot and the funds were then sent to a legitimate trading platform, so there is not enough evidence for me to say that E was a scam even if I did think that Virgin did need to intervene, which I do not.

Recovery

I don't think that Virgin need to refund the transactions under the Contingent Reimbursement Model (CRM) as they did not join it until 28 February 2022 and they did not join it retrospectively. I don't think the funds could have been recovered from the recipient's bank accounts either given the timescales between when the funds were sent and when Virgin was made aware of the issues in questions.

I'm really sorry to disappoint Mr and Mrs B, as I know they have lost a really significant amount of money. But I'm not satisfied that I can fairly ask Virgin to refund them based on the evidence that is currently available.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 19 March 2025.

Charlie Newton
Ombudsman