DRN-4944682

The complaint

Mr E complains that Lloyds Bank PLC did not refund the £20,000 he says he lost to a scam.

What happened

Mr E was introduced to an investment opportunity by a broker, in a company I'll call 'C'. C offered mini bonds to help raise funds for three mineral and oil extraction companies. The documentation about the bond stated there would be fixed and stable income over a minimum of one year and up to ten years with a return rate of 10% per annum or 12% per annum compound. Mr E agreed to the terms and invested £20,000 from his Lloyds account on 24 November 2017.

Mr E did not receive any returns and eventually felt that he had been the victim of an investment scam. He raised a scam claim with Lloyds, via a representative. Lloyds issued a final response letter in which they explained that the transaction was not covered by the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code. Lloyds acknowledged C was involved in a civil case as a co-defendant. But while this may have indicated internal fraud it was not something Lloyds could get involved in. And they did not think there was evidence C was fraudulently set up with the sole intention to defraud investors. So, they did not agree to reimburse Mr E.

Mr E referred the case to our service and our Investigator looked into it. In summary, they felt that while C did not file company accounts, this was not an indication of an intention to defraud from the outset. While they would have expected Lloyds to intervene and ask questions before the payment was made, they did not think any additional questions would have raised significant concerns about the investment. So, they did not think Mr E would have been prevented from making the investment with C had Lloyds intervened.

Mr E's representative provided a detailed response. In summary they felt the high returns and the lack of company accounts were an indication of a scam. And they noted there were negative comments online about C, specifically on C's social media page, which Lloyds could have found and therefore warned Mr E about.

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 E's representatives have provided a detailed reply to the initial view to this complaint. In keeping with our role as an informal dispute resolution service and as our rules allow, I will focus here on the points I find to be material to the outcome of Mr E's complaint. This is not meant to be a discourtesy to Mr E, and I want to assure him I have considered everything he has submitted carefully.

It isn't in dispute that Mr E authorised the payment of £20,000. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that he is liable for the transaction. But he says that he has been the victim of an authorised push payment (APP) scam.

The regulatory landscape, along with good industry practice, also sets out a requirement for account providers to protect their customers from fraud and financial harm. And this includes monitoring accounts to look out for activity that might suggest a customer was at risk of financial harm, intervening in unusual or out of character transactions and trying to prevent customers falling victims to scams. So, I've thought about whether Lloyds did enough to try to keep Mr E's account safe.

Having reviewed Mr E's statements, I can see there were some high value transactions on the account around the time of the payment in question. However, the payment of £20,000 was one of the first high value transactions go to an external account. Having considered everything, I think some form of intervention was warranted by Lloyds before the payment was processed. What's left to decide is if a conversation with Mr E would have prevented the payment from being made at that time.

On balance, I don't think a conversation about the investment or C would have raised significant concerns for Lloyds at that time. I don't know how the investment was presented to Mr E by the introducer, as he has said most of the communication was over the phone. But while I accept the return rates were relatively high at between 10 and 12%, this is to be expected of high-risk investments such as mini bonds. So, I don't think this alone would have been enough to indicate Mr E may be at risk of financial harm. Similarly, while I think Lloyds could have highlighted the risk of investing with a firm not regulated by the FCA, I don't think this would be enough to indicate Mr E may be the victim of a scam.

Mr E's representatives have highlighted that C has been involved in a civil case as a co-defendant. While I have reviewed this, I don't think it has a bearing on the outcome of this case. I can only consider what Lloyds and Mr E could reasonably have been aware of at the time the payment was made. And as the court case did not exist in 2017, I don't think Lloyds should reasonably have been aware of any issues within it at the time of the payment.

Mr E's representative has also highlighted that C did not have any accounts filed on Companies House. However, I can see that the linked company that issued the bonds did have accounts filed, which included filings related to one of the mining companies mentioned in the investment literature. In any event, I would not have expected Lloyds to carry out their own independent research of C unless they had serious concerns about them. For the same reasons, I would not have expected Lloyds to have seen the negative comments on C's social media page.

Mr E was introduced to an investment and was provided with detailed documentation that appeared to be professional. C had a website, which is still live, that also appeared to be professional. The company, as well as the linked company that issued the bonds, were incorporated on Companies House, and while the returns were high, I don't think this alone would have been enough for Lloyds to have serious concerns about the investment. So I don't think any questions from Lloyds about the investment itself or C would have raised any significant concerns at the time. The documentation set out that bonds are high risk investments that can go down as well as up, and investors should be willing to lose all their capital. So, I think any possible investment warnings from Lloyds would not have dissuaded Mr E from carrying on with the investment

On balance, based on the information Lloyds had at the time, I don't think they reasonably would have felt Mr E was at risk of financial harm when making the payment had they

intervened.

I also don't think that Lloyds could have done anything to recover these funds from the recipient account. Given that it was several years after the payment that Mr E first raised his concerns, I think it very unlikely that any funds would have remained for recovery.

Mr E's representatives have said he was particularly vulnerable to the scam they feel C was perpetrating. However, as I have determined the payment cannot be considered under the CRM Code, Lloyds was not required to automatically reimburse Mr E if he was found to be vulnerable as set out in the Code. And while outside of the Code, we would expect a bank to make reasonable adjustments and treat vulnerable customers fairly, I've seen no indication that Lloyds was aware of Mr E's vulnerabilities to be able to make reasonable adjustments as and where needed.

I'm really sorry to disappoint Mr E, as I know he's lost a significant amount of money. But I'm not satisfied that I can fairly ask Lloyds to refund his loss based on the evidence that is available.

My final decision

I do not uphold Mr E's complaint against Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 24 December 2024.
Rebecca Norris
Ombudsman