

The complaint

Mr G complains that Lloyds Bank Plc (Lloyds) won't refund him money he lost in an investment scam.

Mr G is represented by a third-party, but I'll refer to Mr G only, for ease of reading.

What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail, but in summary:

Mr G says he made two payments to a property investment company. The first payment took place on 27 September 2018 and the second on 21 May 2019, each transaction was for £20,000. He says he received some, relatively small returns on his investment. The company was dissolved in 2020.

He says he was introduced to the investment by a broker, he carried out some online research into the broker and the investment company and some general research about the market. He was persuaded the company was a reasonable investment and was told he could obtain a return of 12% on his investment.

Mr G realised he might have been scammed when the company contacted him and asked him to sign a document allowing the company directors to reclassify the dividend payments he'd received as returns of capital. He says the company hadn't made any profits that would have allowed it to pay dividends.

Mr G complained to Lloyds in 2024. He complained that Lloyds ought to have queried these transactions, due to their size. He says Lloyds ought to have questioned what the transactions were for, how he heard about the investment, what rate of return was promised and what he knew about the company he was investing in.

Lloyds didn't uphold Mr G's complaint. It said the Contingent Reimbursement Model (CRM) code didn't apply to these transactions because it hadn't come into effect at the time the transactions were made. In any event, it didn't think these transactions were fraudulent, rather that the investment had failed. Lloyds said it didn't have any reason to intervene in the transactions.

Our investigator said she couldn't be certain this was a scam at the time the transactions were made, but even if it was, she didn't think the complaint should be upheld. She thought the two payments were unusual, due to their high value and so Lloyds should have contacted Mr G before releasing the funds. She thought if Lloyds had questioned Mr G about the investment, there was nothing that was likely to have raised concerns. The company was registered on Companies House, the investment returns weren't so high as to raise suspicions and the company literature appeared plausible and professional. As Mr G didn't report the scam until 2024, some years after the company was dissolved and five years after the last transaction, there were no realistic steps Lloyds could take to recover Mr G's money.

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 agree with the investigator's conclusions and for broadly the same reasons.

There is little evidence to show that, at the time Mr G invested, this was a scam. Mr G has pointed to irregularities and events after the transactions took place, to suggest this investment was a scam. Even if it was, this information was not available to Mr G at the time, nor to Lloyds, which would have made it difficult for Lloyds to have detected that this was a possible scam.

The CRM code didn't apply to these transactions, as Lloyds and the investigator have said. The CRM code came into force on 28 May 2019 and so I can't apply the provisions of that code to these transactions retrospectively.

I have limited details of Mr G's account activity, but I can see that large payments were made from his account in March and June 2018, for £20,000 and £15,000 respectively. Between January 2019 and May 2019 there were several large payments leaving Mr G's account for between £10,000 and £25,000, which suggests the transactions in question weren't particularly unusual for this account. Because of this, I'm not persuaded Lloyds needed to intervene.

But even if I considered Lloyds should have intervened, I don't think this would change the outcome. Mr G ought to have been aware he was investing in a high-risk, unregulated investment. The company's own literature, which he says he read before investing, says the investment is unregulated. The shareholder application paperwork also says the investments expose applicants to a significant risk of losing all their money. From the limited amount of transaction history I've seen, some of the large payments between January and May 2019 also appear to be investments, although I note Mr G says he wasn't a sophisticated or experienced investor.

If Lloyds had queried the payments and asked Mr G some questions about the investment, such as those suggested by Mr G, I'm not persuaded this would likely have changed matters. I consider it likely Mr G would have replied that he had instructed the payments to be made, the purpose of the transactions was to invest in a property company, he was aware of the risk he could lose his money, he had carried-out research into the company and was persuaded it was a legitimate investment. The investment returns advertised also appear reasonable for this type of investment, so that's unlikely to have raised any concern. Overall, I don't see that Lloyds would have had sufficient grounds on which it could reasonably have declined to make the payments as instructed. Nor do I consider that any warnings it might have given, for example, that such investments carried the risk of losing all Mr G's money and to research the investment, would have changed matters, since he had already carried out research and ought reasonably to have been aware of the risks.

I've considered Mr G's response to the investigator's assessment, but this appears to be largely directed at his own representatives, asking about the possibility of pursuing matters against either the parties responsible for writing the company's information memorandum, or the company's bank. They don't persuade me that Lloyds was at fault for processing the transactions as instructed, or that any intervention that Lloyds could have made would have materially changed matters.

My final decision

For the reasons given above, I don't uphold Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 October 2024.

Greg Barham
Ombudsman