

The complaint

Ms M complains that Lloyds Bank PLC (Lloyds) won't refund money she lost in an investment scam.

What happened

What Ms M says:

Ms M is represented by a third-party claims firm.

She says she was introduced to an investment opportunity with a firm (which I will call 'firm B') by a friend. She said she did some research into firm B and couldn't find any poor reviews, so went ahead and invested. She sent money to her crypto exchange account ('firm A'), and from there, transferred it to the investment firm B.

Ms M says she was induced to invest in firm B because she was offered a daily return of 2.5% and that increased if she added more money or recruited others. The investment firm then introduced a bonus whereby investors could double their money within 48 hours if they put money in during that period.

The payments made by Ms M were:

Date	Payment	Amount
21 November 2023	Debit card: to Ms M's account at firm A.	£101.99
22 November 2023	Faster payment: to Ms M's account at firm A.	£10,000
Total		£10,101.99

Ms M realised it was a scam when she tried to withdraw money, but couldn't. It was shown as withdrawn from firm B, but it didn't appear back in her wallet with firm A. And at that time there were various messages from social media groups saying the same thing.

Ms M says Lloyds should've intervened and stopped the payment. There were clear red flags, including:

- She was asked to send money to firm B via her crypto wallet, a sign of a scam.
- The returns offered were unrealistic.
- Incentivising investors by increased returns for introductions was a sign of a scam.
- The 100% bonus was a sign of a scam.

Ms M says Lloyds should refund the money she's lost, plus interest at 8% per annum.

What Lloyds said:

- The payment of £10,000 was flagged as high risk and was out of character.
- When the bank spoke to Ms M, they blocked her account overnight to allow her to consider whether she wanted to go ahead with it.
- When they spoke to Ms M the next day, they went through crypto currency scams and the risks of investing – this was done on two calls.
- Ms M said she'd been using firm A and firm B for several months and wanted to go ahead.
- Lloyds apologised for the fact that Ms M was kept on hold for some time and because one call dropped out. The bank told us they'd paid compensation of £30 for that.

Our investigation so far:

Ms M didn't agree and brought her complaint to us. Our investigator didn't uphold it and said:

- Ms M went ahead with the payment despite the warnings from Lloyds.
- He was satisfied that Lloyds asked the right questions and gave Ms M the appropriate warnings.
- But Ms M wanted to go ahead anyway.
- He noted that Ms M wasn't truthful in her responses to some of the questions asked by Lloyds, for example:
 - o She was asked about whether she was being offered great rates – but she replied she wasn't. This was against her being offered 2.5% per day.
 - o She was asked whether she had been asked to move money – but firm B's adviser had told her what to do on a WhatsApp chat.
- He couldn't see that Lloyds had tried to recover the money, but because of the nature of the scam, it was unlikely that this would have got any money back in any case.

Ms M didn't agree. She said there were enough red flags to mean that Lloyds should not have made the payment. She said:

- Lloyds should've looked into firm B and its status. They would have seen it was not regulated.
- Lloyds should've questioned her on the returns promised.
- The elements of the scheme showed it was clearly a 'ponzi' scheme or a scam, which Lloyds should've seen.

Ms M asked that an ombudsman look into her complaint and so it has come to me.

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'm sorry to hear that Ms M has lost money in a cruel scam. It's not in question that she authorised and consented to the payments in this case. So although she didn't intend for the money to go to a scammer, she is presumed to be liable for the loss in the first instance.

So, 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. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of the story. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Lloyds should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I need to decide whether Lloyds acted fairly and reasonably in its dealings with Ms M when she made the payment, or whether it should have done more than it did. I have considered the position carefully.

The Lending Standards Board Contingent Reimbursement Model Code (CRM Code) provides for refunds in certain circumstances when a scam takes place. But – it doesn't apply in this case. That is because it applies to faster payments made to another UK beneficiary – and in this case, the payments were made to Ms M's own account with the crypto exchange firm A.

The first consideration here is: if the payment was of a sufficient size and was out of character with how Ms M normally used her account – then we would expect Lloyds to have intervened and spoken to her about it.

I don't consider Lloyds needed to intervene in the smaller payment for £101.99 because it was low value.

I considered the payment for £10,000. I looked at Ms M's account, and it's fair to say that the payment was fairly unusual compared to the way in which she used her account – which was to make day to day expenditures of low value.

There were six large payments during the previous 12 months – between £2,500 and £5,000 – but on balance, I'm satisfied that Lloyds were justified in intervening in the payment for £10,000 – which is what the bank did.

When Ms M tried to make the payment on 22 November 2023, Lloyds stopped it and blocked her account. The bank spoke to her about it and I listened to six calls which took place on that day and the day after. I need to decide whether Lloyds asked the right questions and gave the necessary warnings to Ms M.

Three of the calls were initial calls which were then transferred to Lloyds' fraud team. I listened in particular to the three calls between Ms M and the fraud team.

Call – 22 November 2023:

Lloyds: *tell me more about the payment.* Ms M: *been using firm A for a while, have been sending money to and from it for a while.*

Lloyds: *is the account in your name?* Ms M : *yes.*

Lloyds: *to a crypto wallet?* Ms M : *yes*

Lloyds: *have you made payments to firm A before?* Ms M: *yes*

Lloyds: *this is a large amount of money and (our system had flagged it as) something is not right.* Ms M: *but I have used firm A before, I appreciate your concern.*

Lloyds: *cannot release the payment today, and your account is blocked overnight, no payments are allowed for today. We suggest in this time you check all is OK (with the payment/investment). We see a lot of fraud and scams.* Ms M: *but this is important/time critical....this is absolutely terrible, this is my money.*

Lloyds: *it has been classified as a high risk payment. Has anyone approached you to make it?* Ms M: *no.*

Lloyds: *there's lot of fraud at the moment.* Ms M: *this isn't the case, I want to move my money. This is disgusting and I will be closing my Lloyds account.*

Call – 23 November 2023:

The next day, Ms M called Lloyds.

Lloyds: *we don't want you to fall victim to a scam. If you do, it's unlikely we will be able to get your money back. Or if you don't answer honestly, we won't be able to get your money back.*
Ms M: *OK*

Lloyds: *why are you making the payment?* Ms M: *to a crypto exchange and then to firm B's platform.*

Lloyds: *how long have you had an account with firm B?* Ms M: *two months.*

Lloyds: *account in your name?* Ms M: *yes.*

Lloyds: *were you asked to open an account?* Ms M: *no*

Lloyds: *are you making your own decisions?* Ms M: *yes.*

Lloyds: *any advice from crypto brokers?* Ms M: *no*

Lloyds: *any advice from account managers?* Ms M: *no*

Lloyds: *are you happy you are not falling victim to a scam?* Ms M: *yes, I am very happy.*

Lloyds: *any suspicious emails or calls?* Ms M: *no*

Lloyds then read out the FCA warning: *investing in crypto currency is high risk and customers must be prepared to lose all of their money*. Ms M: *understood*.

Call – 23 November 2023.

It's not then clear what happened – it appears the first call dropped out.

Ms M then called Lloyds again. The call handler asked several of the questions again. Ms M was upset and said she was 'furious' at what had happened because her account had been blocked.

Lloyds: *I'm going to ask you some questions because that's my job, and it is me who has to decide whether to make this payment*. Ms M: *I've answered all these questions before*.

Lloyds: *how long have you been using firm A and firm B*: Ms M: *several months*.

Lloyds: *does anyone else have access to the accounts?* Ms M: *no*

Lloyds: *has anyone said they are offering great rates?* Ms M: *no*

Lloyds: *we see a lot of scams where money is moved into crypto wallets and then to crypto – is that what is happening here?* Ms M: *no*

Lloyds: then read out again the FCA's warning as on the earlier call. And the payment was released.

I considered whether Lloyds asked the right questions on the calls, or should have done more to protect Ms M.

And in this case, I don't think the bank should reasonably held liable for Ms M's losses. I say that because:

- Ms M said she had dealt with firm A and firm B before and for several months.
- She said she was acting alone and making her own investment decisions.
- She said she hadn't been promised high returns - when in fact, she had. A daily return of over 2% is a high return. If Ms M had been truthful, then Lloyds may have been able to ask more questions and uncover the scam.
- She said there were not any third parties involved and she was acting alone - when in fact there was an account manager.
- She said she had done her research into firm B.
- Lloyds read out the FCA's warning about the risks of crypto investments twice.
- And I think it's reasonable for me to say that it comes across that Ms M was determined to make the payment and was frustrated by Lloyds' questions – I think she would have made the payment despite any of the questions Lloyds asked.

Ms M has argued that Lloyds should've known about firm B. But I've seen that the FCA didn't publish a warning on firm B until 5 December 2023 – so it's not reasonable for Lloyds to have known anything here. And in any case, we can't reasonably expect Lloyds to do company – specific research on behalf of customers. Banks can only be expected to provide

reasonable and proportionate guidance and warnings in line with the rules and responsibilities they have.

Recovery: We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. I looked at whether Lloyds took the necessary steps in contacting the bank that received the funds – in an effort to recover the lost money.

And here, the funds went from the bank account to a crypto currency merchant (firm A) and the loss occurred when crypto was then forwarded to firm B, the scammers. In this case, as the funds had already been forwarded on in the form of cryptocurrency there wasn't likely to be anything to recover.

I'm sorry Ms M has had to contact us in these circumstances. I accept she's been the victim of a cruel scam, but I can't reasonably hold Lloyds responsible for her loss.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 15 November 2024.

Martin Lord
Ombudsman