

The complaint

Mrs O complains that Bank of Scotland plc trading as Halifax didn't do enough to protect her from the financial harm caused by an investment scam.

What happened

Between January 2021 and October 2021 Mrs O made multiple payments to two cryptocurrency exchanges. Starting in October 2021 she also received multiple credits into her account which appear to be from a cryptocurrency exchange. Although Mrs O's representative has said that these are unrelated to the scam.

I haven't seen clear communication between Mrs O and the alleged scammer detailing which payments made and received from the cryptocurrency exchanges are as a result of the alleged scam and which are due to Mrs O deciding to invest in cryptocurrency herself. Her representative has also repeatedly said that Mrs O was an inexperienced cryptocurrency investor which seems to contradict the assertion that the payments received into her account were unrelated to the scam.

Setting that aside, Halifax doesn't believe that Mrs O fell victim to a scam – instead they believe she took part in a high-risk investment which resulted in her financial loss. It points to the fact that the company Mrs O invested in was officially registered in the UK, and receivers had been appointed. This suggests that the company was genuine rather than a scam company. Given that, Halifax doesn't think it acted unfairly.

Our Investigator concluded that it was unclear whether the investment was legitimate or a cruel scam. Regardless he was satisfied that had Halifax intervened further and asked further questions about the circumstances surrounding the payments, Mrs O would have answered the questions in such a way to alleviate any concerns it had and the scam wouldn't have been uncovered or Mrs O deterred from making the payments. He therefore wasn't persuaded that further intervention from Halifax would have prevented the loss – even if he was persuaded that Mrs O was the victim of a scam.

Mrs O disagrees and believes she was the victim of a scam. She said that the intervention Halifax provided didn't ask enough probing questions and had she been asked about the third-party platform she was investing in – and the circumstances surrounding how she was introduced to the alleged scam and its returns – it would have been evident that she was falling victim to a scam.

As an agreement wasn't reached this complaint has been passed to me for a final decision.

What I've decided – and why

I'm aware that I've summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I've focused on what I think is the heart of the matter here. If there's something I've not mentioned, it isn't because I've ignored it. I'm also satisfied I don't need to comment on every individual point or

argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

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'm minded to reach the same conclusion as our Investigator. And for largely the same reasons. And I've explained why below.

I'm satisfied Mrs O authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although she didn't intend the money to go to the alleged scammers, under the Regulations, and under the terms and conditions of her bank account, Mrs O is presumed liable for the loss in the first instance.

Although Mrs O did authorise the disputed payments, Halifax is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Has a scam taken place

The company Mrs O thought she was investing in is officially registered in the UK at Companies House and receivers have been appointed. Being registered at Companies House is unusual for a scam company to do, as being registered provides a degree of oversight for companies (as there are certain things a company would need to do, such as submit accounts etc) and can make it easier to contact them. It also provides a degree of transparency to the company which is unusual if the company was a scam.

However, there are also numerous recent online articles detailing the detailing criminal proceedings being brought against the director of the alleged scam company, but I haven't been provided with any judgments in relation to those cases, and it is difficult to determine if the director was mismanaging funds – or was acting fraudulently.

Not every complaint referred to us and categorised as an investment scam is in fact a scam. Some cases simply involve high-risk unregulated investments that resulted in disappointing returns or losses. Some of these investments may have been promoted using sales methods that were arguably unethical and/or misleading. However, while customers who lost out may understandably regard certain acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, which requires dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

I've carefully considered the circumstances along with the evidence Mrs O and her representative have submitted in support of their position that she was the victim of a scam. I don't intend to make a finding on whether the company Mrs O was investing through was operating a scam because, even if it was, it doesn't make a difference to the outcome of this complaint. To uphold this complaint, I'd need to be satisfied that Halifax should have intervened to warn Mrs O when she tried to make the payments and that such an intervention would have made a difference and prevented her loss.

When looking at the payments Mrs O made towards the alleged scam, I think there were points where Halifax's intervention should have been more thorough — for example, by providing Mrs O with a warning or asking further probing questions. However, I don't think such an intervention would have made a difference and I've explained why below.

Prevention

Payment 1

Considering the relatively small amount that Mrs O was transferring I don't think Halifax needed to intervene despite the payment going to a cryptocurrency exchange.

Payment 2-8

Mrs O made numerous payments to a cryptocurrency exchange on 7 and 8 January 2021 totalling around £10,000. Given that the first payment was for £5,000 and the subsequent payments were made relatively soon afterwards, I think it would have been appropriate for Halifax to provide a warning about the dangers of investing in cryptocurrency as investing was the reason she said she was making the payments to the cryptocurrency exchange.

When considering if such an intervention would have made a difference, I've carefully considered the latter intervention calls Mrs O had with Halifax on 20, 21 and 22 January 2021 regarding larger payments she was making towards the cryptocurrency platform. During these calls Halifax provided Mrs O with a warning about the risks associated with investing in cryptocurrency and confirmed that she was making the transfer independently. Despite these warnings Mrs O continued with these later transactions.

Considering how she responded to warnings given by Halifax a couple of weeks later, where she continued with the payments, I'm satisfied that on balance she would have still completed payments 2-8 had she received a similar warning from Halifax at the time of these transactions about the risks associated with investing in cryptocurrency.

Payment 9

Similarly to payment 1 considering the relatively small amount Mrs O was transferring I don't think Halifax needed to intervene before allowing the transaction to complete.

Payment 10-15

These payments were for substantially more (with the largest being £14,750). Due to the amount of money Mrs O was sending to a high-risk cryptocurrency merchant, I think a proportionate response would have been for Halifax to contact Mrs O to question her about the payments and I can see it did so for some of these payments. During the call that took place before payment 10 (£14,000 payment on 20 January 2021), and the later calls on 21 January 2021 and 22 January 2021 (which I've also referenced above) Mrs O said that nobody had instructed her to make the payment, she is doing this independently and had sole control over the account she was transferring funds to. She also confirmed that she had completed her own research, and gave a plausible explanation as to why she was transferring so much money — specifically, so that she could “buy the dip”, and needed funds there ready in her cryptocurrency account to allow her to do so without delay.

Mrs O's representative has argued that Halifax should have asked more probing questions, but I'm satisfied Halifax's questions were sufficient, and her answers reasonably alleviated concerns Halifax had about Mrs O being scammed. I also note that Mrs O was warned about the risk of fraud during these conversations and she confirmed she wanted to continue. I'm

not persuaded that a more tailored warning about the risks associated with cryptocurrency investments would have resonated with her and prevented her from continuing with the payment, considering how she interacted with Halifax during its intervention. On balance, I don't think that even if the payments were stopped and Mrs O asked to complete further checks this would have resulted in her not continuing with the payments as at the time the company looked legitimate, and Mrs O had been so convinced she tried to persuade her friends to invest.

I've considered whether Halifax's intervention was proportionate to the risk presented by the payment, and I'm satisfied that it was.

Payment 14 and 15

I have also noted that there were later larger transactions that Mrs O made to the cryptocurrency exchange in March and April 2021. By this time the beneficiary was an established payee and Mrs O had transferred large sums to it previously. While I accept that ideally Mrs O should have been asked probing questions and received a fraud warning about these payments, I think it's more likely than not she would have answered questions similarly to how she did in January 2021. And that her answers would have alleviated any concerns Halifax had about the payment. And given how she responded to previous interventions I'm not satisfied that a fraud warning would have resonated with her and prevented her from making the payment.

As I mentioned previously, the firm she was investing in was registered at Companies House. This would have added to its legitimacy. In her complaint form Mrs O's representative says that she introduced friends to the alleged scam – as she was so convinced that it was a legitimate investment opportunity. I've seen limited information online from the time of the payments to suggest that the company was a scam.

This further persuades me that it's unlikely that further intervention from Halifax would have either identified the scam or have resonated with Mrs O and resulted in her not making the payments. So I don't think this lack of intervention represented a missed opportunity to stop the alleged scam.

Later larger payments

Mrs O also made three later payments of around £5,000. These payments occurred around 12 July 2021, 15 September 2021, and 27 September 2021. Ideally Mrs O should have received a warning about the fraud risks associated with these payments. But for the reasons explained – I'm not satisfied that such a warning would have resonated with Mrs O and prevented her from continuing with the transactions, given her response to the intervention calls she had with Halifax in January 2021. So again, on balance I don't think this lack of intervention represented a missed opportunity to stop the alleged scam.

Recovery

I don't think there was a realistic prospect of a successful recovery because Mrs O made the payments to accounts in her own name before moving the funds onwards from there.

Compensation

The main cause for the upset was the scammer who persuaded Mrs O to part with her funds. I haven't found any errors or delays to Halifax's investigation, so I don't think she is entitled to any compensation.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 14 January 2026.

Sureeni Weerasinghe
Ombudsman