

The complaint

The representative of B complains that Lloyds Bank PLC ("Lloyds") is refusing to refund B the amount he claims B lost as the result of a scam.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

However, in summary, in 2018 the representative of B says that it entered into an agreement with a company that I will call X.

B made 4 transactions from its Lloyds account totalling over £220,000

Our Investigator looked into this matter, and they did not uphold this complaint. They did not think that sufficient evidence had been provided that B had been scammed and that had Lloyds intervened it would not have stopped the scam.

B did not agree and therefore this complaint was passed to me to issue 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.

Firstly, I should say that I have not seen sufficient evidence to be able to say that B was scammed by X. I have not been provided with the agreement between B and X and have no idea of what was promised or agreed.

From what I can find out about X from the e-mails provided and from using an internet archiving tool, X is likely an investment firm that was actually registered by the FCA in 2018.

From the e-mails provided, it seems likely that X introduced B to a different company that I will call C but there is no evidence that B actually sent funds to C - the dates and the amount sent as part of the scam do not match the agreement with C. It is possible that the funds were sent to X and then onto C, but there is no evidence of this.

From recent articles, it seems likely that C were operating a Ponzi style scheme. Though I can't see that a court case has actually established this. That said, even if I were satisfied that the funds went to C from B and even if I were satisfied that B was scammed by C via X, that does not mean that Lloyds needs to refund the above transactions.

To explain, it isn't in dispute that B authorised the disputed payments that were made to the trading platforms. The payments were requested using legitimate security credentials provided by Lloyds, and the starting position is that banks ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I've considered whether Lloyds should have done more as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transaction.

Looking at B's bank statements, it is clear that the payments were unusual and should have prompted an intervention. But this does not mean that Lloyds should refund the transactions. I need to consider what would have happened had Lloyds intervened. If Lloyds had intervened and asked probing questions, it would have likely found out that B was sending funds to a trading firm via X who appear to have been a legitimate financial advice firm who were FCA registered in 2018. The financial advisor mentioned on the documentation was FCA registered as well. There were no FCA warnings about either X or C at the time. So, I don't think that it would have been apparent that B was being scammed, indeed based on the evidence available at the time, the payments would've appeared to have been legitimate investments that had been recommended or at least introduced by X.

I have considered if a general warning given at this point would have dissuaded B from carrying on with the scam. But in this specific case I don't think that it would have. B had sought advice from a legitimate firm X. B appears to have received professional looking documentation about C's past performance and had been in receipt of a letter from an accountant, confirming that C held the funds it claimed to. There were no online warnings at the time about X or C either. So I can't see anything that Lloyds could have pointed to that would have stopped B.

I note B's representatives' comments that Lloyds had a duty to evaluate the risk of the payments B made. But this is not the case. The Supreme Court has recently reiterated in *Philipp v Barclays Bank UK PLC*, subject to some limited exceptions, banks have a contractual duty to make payments in compliance with the customer's instructions and that it is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.

That said, I am satisfied that Lloyds can intervene and ask questions about a payment. But I have set out above the reasons why, even if Lloyds had done that, I don't think it would have been apparent to Lloyds or B, that B was being scammed. So overall, I am of the opinion that Lloyds should have intervened, but had it done so, I don't think the scam would have been stopped. So I don't think that Lloyds should refund the payments that were made.

I've also thought about whether Lloyds could have recovered the funds via other means. However, given the timescales involved, I don't think that it could have recovered the funds.

So overall, whilst I'm sorry to hear of B's loss, taking into consideration the circumstances of the complaint, I can't reasonably ask Lloyds to refund B the money it lost.

My final decision

For the reasons stated above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 4 December 2024.

Charlie Newton
Ombudsman