The complaint

Mr M has complained that Lloyds Bank PLC ("Lloyds") failed to protect him from falling victim to an investment-related scam.

What happened

The background of this complaint is already known to both parties, so I won't repeat all of it here. But I'll summarise the key points and then focus on explaining the reason for my decision.

Mr M has used a professional representative to refer his complaint to this service. For the purposes of my decision, I'll refer directly to Mr M, but I'd like to reassure Mr M and his representative that I've considered everything both parties have said.

Mr M has explained that in September 2018 he sent two payments to an accountancy firm on the understanding the payments were to fund a foreign exchange investment scheme, whereby he was promised a 5% return on his investment after 12 months. He says he was introduced to the investment by an adviser he'd used several years before, and he was satisfied it was a genuine opportunity after completing some checks at the time

Mr M received some payments from the investment but from April 2019 the payments stopped. The company subsequently went into liquidation, and Mr M's outstanding loss at that point was £22,500.

The payments Mr M sent and received in relation to the investment were as follows:

Date	Amount	Type
13/09/2018	£20,000	Payment sent
14/09/2018	£10,000	Payment sent
12/10/2018	£1,500	Payment received
14/11/2018	£1,500	Payment received
14/12/2018	£1,500	Payment received
18/01/2019	£1,500	Payment received
18/04/2019	£1,500	Payment received

Mr M made a complaint to Lloyds in which he said it failed to give him any warnings before the payments to fund the investment were made, despite them being out-of-character compared with his usual account usage. He says Lloyds should've questioned where the payments were going to and interrogated him to understand more about the alleged investment, and had it done so, it would've uncovered the scam. Lloyds didn't uphold Mr M's complaint as it said that although the company Mr M made the payments to went into liquidation, it didn't think the company's intention was to defraud Mr M from the outset, so Lloyds didn't agree that Mr M had been scammed.

Mr M remained unhappy so he referred the complaint to this service. To put things right he said he wanted Lloyds to refund his initial investment plus £1,000 for the stress and aggravation it had caused.

Our investigator considered everything and didn't think the complaint should be upheld. He explained he didn't think any action Lloyds could've taken would've uncovered the scam or prevented Mr M from making the payments. So he didn't think Lloyds was responsible for Mr M's loss.

As Mr M didn't accept the investigator's opinion, the case has been passed to me to make a 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.

I'm sorry to disappoint Mr M but having considered everything I'm afraid I'm not upholding his complaint, broadly for the same reasons as our investigator, which I've set out below.

In broad terms, the starting position is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. And in this case it's not in question whether Mr M authorised these payments from leaving his account. It's accepted by all parties that Mr M gave the instructions to Lloyds and Lloyds made the payments in line with those instructions, and in line with the terms and conditions of Mr M's account.

But that doesn't always mean that the business should follow every instruction without asking further questions or intervening to ensure requests coming from their customers are firstly genuine, and secondly won't result in harm.

Lloyds hasn't been able to say whether it intervened before Mr M made the payments, so I'm unsure whether it asked him any questions or gave him any warnings. But that's not surprising, since the payments were made almost six years ago. So in the absence of that information I've considered what might've happened if Lloyds *had* warned Mr M he was being scammed, and how that might've changed the outcome.

It's fair to say that the payments Mr M made were unusual – as they weren't in line with his usual account activity. The were significantly larger than any other payments he'd made in the preceding year, and the fact they were sent on two consecutive days also stands out as potentially suspicious. So I think it would've been reasonable for Lloyds to intervene before at least one, if not both, of the payments were made.

Although I don't know whether Lloyds intervened, so I don't know to what extent that might've been, I'm not persuaded any level of intervention would've uncovered these payments were related to a scam, so I think the outcome for Mr M would've been the same.

I say this because all of the information I've seen and been provided points towards the company Mr M invested in being a legitimate company at the time the investment was made. The company had been registered since September 2013 and the investment was introduced by a broker who Mr M had used before, and trusted. So even if Lloyds had probed him on the way he was introduced to the investment, or the opportunity itself, I don't think Lloyds would've been concerned with Mr M's answers. I wouldn't have expected Lloyds to carry out due diligence on the investment itself, nor would I have expected it to look into the potential returns or risk level of the investment opportunity, because it's not Lloyds' role to give that kind of advice. The most Lloyds would've likely been able to do is to make sure the payments Mr M made were authorised and give him guidance on how to ensure he was satisfied that they were funding a genuine investment. Even if it done that, I'm persuaded Mr M would've still gone ahead and made the payments, because there wasn't any information to suggest otherwise.

I'm also mindful that Mr M says he concluded that he'd been scammed on the basis that he hasn't been able to recover his initial capital investment. But despite this it doesn't automatically follow that Lloyds is responsible for that, or secondly, that the investment was a scam. So without any other persuasive evidence to convince me otherwise, I'm not holding Lloyds responsible for Mr M's outstanding loss.

Additionally, Mr M has provided some literature he received in relation to the investment. I can see that although it refers to "capital guarantee" it does also explain that no investment is risk-free and that the initial capital is at risk. It also states that the guaranteed income from the investment is 5% per month.

With this in mind, I think even if Lloyds had asked Mr M for more detail on the investment, it wouldn't have discovered anything particularly concerning. It's not the case that the returns he'd been promised were "too good to be true", and the investment was recommended by an advisor he already knew. So I don't think any investment-related warnings Lloyds could've given would've resonated with Mr M at the time.

I note Mr M's point that he was an inexperienced investor and had Lloyds spoken to him, it would've uncovered this. But I'm also satisfied that Mr M would've likely told Lloyds that he was acting on the advice of an advisor whom he trusted, which it would've been reasonable for Lloyds to accept. So I don't think Mr M's level of investment experience changes things here, nor does it persuade me any further that Mr M was scammed.

I'm very sorry about what's happened to Mr M and I understand that nothing can take away from the fact he's lost a lot of money. But for the reasons I've explained, I don't hold Lloyds responsible for that, as I don't think Lloyds could or should've prevented it from happening.

Recovery of the funds

Lloyds didn't attempt to recover the funds Mr M lost, but I think that's reasonable in this case. As the recipient had gone into administration, and as the payments were sent several years before Lloyds was made aware of the loss, there wasn't any prospect of a successful recovery.

My final decision

I don't uphold Mr M's complaint against Lloyds Bank PLC.

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

Sam Wade
Ombudsman