

**The complaint**

Mr R complains that Citibank UK Limited (Citi) won't refund money he lost in an investment scam.

**What happened**

*What Mr R says:*

Mr R came across an online advertisement for investment opportunities trading in crypto currency. He says he carried out some research into the company concerned (which I will call 'company A') and it seemed legitimate. He was provided with an account on its trading platform, together with an account manager. He says he was promised returns of 3-5% per month.

The manager appeared knowledgeable and courteous. Mr R sent several payments to his crypto wallet with a crypto exchange firm, and from there transferred it to company A. The funds were paid into Mr R's account at Citi from his business account held with another bank. **(continued)**

The payments were:

Date	Payment	Amount	Balance remaining
29 December 2022	Faster payment to Mr R's account	£25	£54,050

	at crypto exchange		
30 December 2022	Faster payment to Mr R's account at crypto exchange	£6,500	£45,833
30 December 2022	Faster payment to Mr R's account at crypto exchange	£8,217	£39,333
30 December 2022	Faster payment to Mr R's account at crypto exchange	£5,960	£33,373
10 May 2023	Faster payment to Mr R's account at crypto exchange	£22,000	£45,998
10 May 2023	Faster payment to Mr R's account at crypto exchange	£28	£45,970
11 May 2023	Faster payment to Mr R's account at crypto exchange	£11,000	£34,970
7 June 2023	Faster payment to Mr R's account at crypto exchange	£22,000	£78,895
7 June 2023	Faster payment to Mr R's account at crypto exchange	£22,000	£56,895
8 June 2023	Faster payment to Mr R's account at crypto exchange	£22,000	£34,895
<b>Total</b>		<b>£119,730</b>	

In June 2023, Mr R was told the value of his holding had gone up and advised him to withdraw his profits. But to do that, he had to pay a fee. This he paid, but no funds arrived in his wallet. Mr R then realised this was a scam.

He reported the matter to Citi in June 2024 – via a third-party claims firm.

Mr R says Citi should've done more to protect him. He made several large payments to a crypto currency exchange and then onto the scam platform. Citi should've intervened and questioned him but didn't – the bank was well placed to protect Mr R as they are aware of how such scams work.

Mr R made some payments via two other banks (totalling £28,160) – and these are also the subject of complaints brought to this service.

Mr R says Citi should refund the money he's lost.

*What Citi said:*

Citi said:

- Mr R properly authorised the payments using a one-time password.
- Citi provided signposts to their scam warnings available to customers.

- The bank intervened in the payment for £8,217 – on 30 December 2022.
- On 7 June 2023 and 8 June 2023, the bank flagged the payments but allowed them to go ahead (without any intervention) as the payee had been used before.
- Citi tried to recover the funds from the recipient bank, but no money was left in the account.

*Our investigation so far:*

Mr R brought his complaint to us. Our investigator upheld it and said:

- The banks' intervention on 30 December 2022 was going to a new payee and was large enough to be flagged by Citi.
- But the bank's intervention didn't go far enough. They should've asked more probing questions to understand what was going on. The questions they asked were more about safe account scams and appeared to be scripted, closed questions.
- For example, Citi should've asked why Mr R was making the payment – and once he said it was to do with crypto currency, Citi could've then gone on to ask more tailored and relevant questions.
- But, given all that, he thought Mr R would still have gone ahead – even though on one of the related scams, he was evasive with that bank about what he was doing and so would most likely have been so again with Citi.
- Citi detected two payments for £22,000 in June 2023 but should've intervened in the earlier payment for £22,000 on 10 May 2023 - because of its value.
- Had Citi intervened in the payment on 10 May 2023, he considered the scam would've been uncovered and payments stopped from then on.
- By that time, Mr R was having some concerns about company A and would have been receptive to the warnings Citi should then have given.

So, he said Citi should refund the payments from that time, less 50% for contributory negligence on the part of Mr R. This was because:

- Mr R had been warned by friends it could be a scam
- Mr R could've been more forthcoming when he was questioned by other banks.

So, our investigator said Citi should refund £99,028 (less 50%) plus interest at 8% per annum simple.

Mr R accepted this, but Citi didn't. The bank said:

- If Mr R had been evasive in his conversations with the other bank, it was likely he would've been so with Citi on 10 May 2023.
- The fact that Mr R was appearing uncomfortable with the investment was later than this, on 17 May 2023.
- Even though his friends warned him it may be a scam at that time, Mr R still went on to send a further £66,000. So – it was unlikely that the bank could've persuaded him to stop making payments.
- The payment on 10 May 2023 was to a known payee – Mr R had sent money to them in December 2022, five months before.
- Mr R didn't report the scam for some time afterwards, which meant that any recovery action wasn't likely to be successful.
- Citi said Mr R should be refunded from the payment of £11,000 on 11 May 2023 onwards – £77,000 - and the liability should be shared between Mr R (50%), Citi (25%) and Mr R's business account bank B (25%).

Our investigator said bank B couldn't be asked to share liability as no complaint had been

brought against it.

As no agreement could be reached, the complaint has come to me to look at.

### **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 Mr R has lost money in a cruel scam. It's not in question that he authorised and consented to the payments in this case. So although Mr R didn't intend for the money to go to a scammer, he 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 Citi 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 Citi acted fairly and reasonably in its dealings with Mr R when he made the payments, 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 Citi hasn't signed up to the Code. And, it applies to faster payments made to another UK beneficiary– and in this case, the payments were made to Mr R's own account with the crypto exchange.

The first consideration here is: if the payments were of a sufficient size and were out of character with how Mr R normally used his account – then we would expect Citi to have intervened and spoken to him.

Mr R's account was used primarily to make payments to the crypto exchange. There were no other payments other than those - during the period between October 2021 and when the first scam payments were made in December 2022. So, it's fair to say the payments starting then were unusual. But – equally, it's not fair to expect Citi to have intervened immediately at that stage.

I say that as there's also a balance to be made: Citi has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every

transaction as this would cause unnecessary disruption to legitimate payments. In this case, I think Citi acted reasonably in processing the first two payments.

Citi did intervene in the next payment for £8,217 on 30 December 2022 – I listened to the call. It was, in summary, a poor intervention from Citi – the call handler asked Mr R several closed questions and he was asked to answer: ‘yes’ or ‘no’. Mr R was asked questions relating to a ‘safe account’ scam – so the call handler wasn’t going to be able to provide a suitable warning to Mr R or get any information from him that pointed to an investment scam.

But towards the end of the call, Mr R said the payment was for an investment and was in favour of a legitimate company. The call handler didn’t pick up on that. So, on balance, and given the amount involved (which was fairly low), I agree Citi were justified in releasing the payment.

I then considered the payment for £22,000 on 10 May 2023. By then Mr R had made three fairly large payments to the crypto exchange – and I note that Citi believes this was reason not to intervene in this payment. But equally, there had been no payments (or any other activity) on Mr R’s account since 30 December 2022 until 10 May 2023 – which is a long time.

And on that day there were credits of £20,000 and £15,000 paid in – and the payment was then made the same day. And taken together - this was then the fourth payment to the crypto exchange – albeit five months apart. And – the payment of £22,000 was large and unusual. I considered Citi’s point about the payment being to a known payee – but given its value, I don’t think that’s a reason for the bank to not intervene.

For these reasons I think it’s fair to have expected Citi to intervene, but the bank didn’t.

Citi was the expert in such matters and if they’d intervened, held the payment and contacted Mr R we would have expected them to ask open questions such as:

- Why are you making the payment?
- Who to?
- For what purpose?
- How did you hear about the investment?
- How were you contacted about it?
- Where did the money come from that you’re investing?
- Where is the money going to from your crypto wallet?
- What do you know about bitcoin investing?
- Have you made bitcoin investments before?
- How were you given the bank account details where the money was to be paid to?
- Have you given control on your devices to anyone else?

Citi would’ve found out that Mr R was dealing with company A on email and had never met them, and the contact had originated from the internet. And he hadn’t had any withdrawals. And Mr R’s research into the firm was limited.

All of these were red flags and there was enough going on to persuade me that Mr R would’ve been warned about the risks involved and wouldn’t have made the payments from the payment on 10 May 2023 onwards.

In this respect, I considered carefully the interventions made by Mr R’s other bank – he made five payments from that bank in February 2024 and March 2024 totalling £27,050 – which complaint has also been considered by this service. That bank’s interventions were

thorough - open questions were asked about the investments Mr R was making. And Mr R, for me, misled that bank and the payments were made. Mr R said on different calls:

- The payments to the crypto exchange were to 'pay invoices/bills'; on the advice from his accountant.
- The payments were to pay taxes from the crypto exchange. He denied the payments were for crypto currency investments – even when challenged by the bank.
- No more payments would be made (when a further one was in fact made afterwards)
- Mr R said the payments were to be for 'investments' – for stocks and shares.
- He said he was trading himself daily, and he was a member of trading forums.
- He said he was trading currencies himself.
- He said the funds would be transferred from the crypto exchange to a named investment firm in Ireland.

Given all of this, I considered whether Mr R would have also misled Citi had the bank intervened in May 2023. In other words, would any intervention have made a difference. There is of course an argument that Mr R would similarly have misled Citi – and if so, then Citi would not be liable to refund any money.

This is a finely balanced decision, but I have to consider also that the intervention from Mr R's other bank was nine months later – if it had been at the same (or similar) time as the payments from the Citi account, I might have found in Citi's favour. But because of the time lag between the payments, it's fair to say that circumstances were probably different – and I'm persuaded that it's not reasonable to conclude that Mr R's responses would've been the same.

I'm also mindful that in May 2023 – the evidence suggests that Mr R was having concerns he was being scammed at that time – in an email to the scammers on 17 May 2023, he said *'This is some serious money and I have asked a lot of my friends to loan me the funds, but all of them except one say that it is a SCAM....and after transferring the £63530.00...plus the £50000.00 paid already all of the funds will be gone forever into (scammer's) pocket.'*

I also saw references to his wife being concerned. So – on balance, because Mr R was having concerns at the time, I'm persuaded that had Citi have intervened and asked open questions, it's likely the scam would've been uncovered and further payments stopped.

So, I consider Citi are liable in the first instance for Mr R's losses from the payment of £22,000 on 10 May 2023 - £99,028.

#### *Contributory Negligence:*

But that's not the end of the story here. I also considered whether Mr R could've done more to protect himself and whether he should therefore reasonably share some of his losses. And I think he should.

In thinking about this - we apply a test of what we would expect a reasonable person to do in the circumstances. We don't (for example) apply a test of what we would expect a finance professional to do. I noted:

- Mr R was having suspicions that he was being scammed – as I referred to above, but he still went ahead.
- It's not clear what research he did – other than he couldn't find anything negative about company A.
- While Mr R has said he didn't give control of the crypto wallet to the scammers – there are references in the emails which suggest he did. At one point - he asks the

- scammers to make transfers to the investment for him.
- There were several months between the payments - so Mr R had an opportunity to reflect and take advice from a professional. He had an accountant – and could've asked him, but apparently didn't.

I considered the other points made by Citi. On the fact that the email (which showed a concern) was dated after the payment on 10 May 2023 – for me, the email shows Mr R was having concerns generally at around that time – as opposed to a specific date.

On Citi's point that they could not have stopped Mr R if his friends couldn't – of course, we will never know – but on the other hand, a series of open and professional questions about what was happening and from a major bank – may well have caused Mr R to reconsider what he was doing.

Citi suggested that their liability is shared with Mr R's business bank (from where he sent the funds to his Citi account). But – as no complaint has been made about that bank, we can't include them in this decision, or direct them to accept a shared responsibility.

#### *Recovery:*

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

But here, the funds went from the bank account to a crypto currency merchant and the loss occurred when crypto was then forwarded to 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. **(continued)**

### **Putting things right**

Citi must refund 50% of £99,028 plus interest at 8% per annum simple from the date of the payments to the date of settlement.

### **My final decision**

I uphold this complaint. Citibank UK Limited must:

- Refund £49,514 plus interest at 8% per annum simple from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 December 2024.

Martin Lord  
**Ombudsman**