

The complaint

Mr D is unhappy that HiFX Europe Limited won't refund payments he made as part of a scam.

Mr D brings his complaint via professional representatives, but for simplicity I've referred to the actions of Mr D throughout this decision.

What happened

In early 2022 Mr D received a call from someone purporting to work for the solicitors handling the hostile takeover of a large power company. He was handling his sister's financial affairs at the time, and knew she had shares in that power company. The agent explained there was an opportunity to buy and sell those shares, in light of the takeover, for a good profit. But things needed to be kept secret, as the deal (worth billions of pounds) could fall through otherwise. Mr D was sent some paperwork about the purchase of the securities his sister held, which required a 'bond' to be paid up front (for around £5,700). He paid that from his account, at a bank I'll call "T", in May 2022.

Mr D was then contacted by another 'investment firm', I'll call "S", which said it was taking over from the original solicitors. The agent offered Mr D the opportunity to acquire more of the same shares at a heavily discounted price, which he would be able to sell at a large profit once the takeover completed. After researching S online Mr D came across the website for the legitimate version, with the same name, and that persuaded him to take up the offer. So, in June 2022, he paid around £54,000 to buy extra shares – through transfers from his account at T.

Later in June 2022, S contacted him to say tax would need to be paid on the profits at 30% - but he could get a 'margin loan agreement' from the company doing the takeover for most of it. Mr D says the documents looked real and so he sent that amount to cover the tax from his T bank account. After that point Mr D was told there had been issues with the payments from his banks, and they were sometimes taking too long. He was advised to open accounts with HiFX and another money transfer service, I'll call "W", which both specialised in foreign exchange and international money remittance. Other investors were apparently doing the same.

Shortly after, in August 2022, Mr D was informed that the tax payment had been made late and there was now a penalty of over £34,000 to pay. He was told that the profits wouldn't be released until that charge had been covered, and it could delay things significantly if he didn't. Mr D was also promised he'd get the tax amount back very soon, as part of the proceeds payment. He tried to send initiate the payment through his account at W – but T blocked the transfer. It's fraud team spoke to him and warned that it seemed to be a scam, particularly as two beneficiary banks had refused to accept the payments he'd attempted. The notes suggest he was educated on the key features of investment scams, and told that if he sent further payments to this investment they wouldn't be covered for a refund. Mr D then moved the money in chunks over a couple of days to his account at a bank I'll call "B" instead. That then funded the payments initiated through W, covering the tax penalty.

Later in August 2022 Mr D received call advising him that there were bank related charges to pay, and he was sent legal looking documents purporting to be from the United States Federal Depository and Treasury. A payment covering those charges, for more than £31,000, was made from his account at W (with the funds originating at B). In September 2022, S said its service fees amounted to almost £24,000 – and they needed to be settled prior to the money being released. S also told Mr D that if paid those costs later he would need to use a different company, and they would charge him more.

Mr D sent a payment for some of those service fees from his account at B. He then opened at account at HiFX account on 20 September 2022, and paid the remaining amount owed as the first transaction from it the following day (with the funds having originated at B). Before allowing the transfer, HiFX asked Mr D to select the purpose – and he chose ‘other’, then in the free text box said it was for ‘services rendered’. HiFX then showed him some general scam warnings and processed the international payment to an account in the name of a consultancy company in the Philippines.

In October 2022 Mr D received a letter supposedly from the Federal Reserve System, saying that \$20,000 needed to be paid as security before the proceeds of the shares sale could be released (which would be refunded). There was also a ‘tax abatement’ cost of over £12,000 to pay, according to S. All of those charges were covered with the transfers sent from Mr D’s HiFX account in November 2022. Each time he was asked for the purpose, and selected ‘other’ – which resulted in the same general scam warnings being shown prior to processing.

Mr D made the following payments from his HiFX account as part of the scam (to accounts in different company names at banks in the Philippines):

Payment	Date	Type	Amount
1	21 September 2022	International transfer	£11,193
2	7 November 2022	International transfer	£8,814
3	8 November 2022	International transfer	£8,822
4	16 November 2022	International transfer	£12,134

There was also a Bank of England tax fee to pay after HiFX transactions, for around £6,200 – with the promise that the money would be released quickly once settled. So he paid that amount. But in January 2023 Mr D received documents from the ‘Office of the Comptroller of the Currency’ which said a payment of almost \$15,000 was needed before the proceeds could be distributed. Mr D attempted to make a payment through Wise, but T (the originating bank) declined it after speaking to him the bank. The notes say T warned him again it was a scam, and said any payments made to the investment wouldn’t be covered for a refund. The agent also noted that Mr D was insistent he knew what he was doing, and would arrange the payment in other ways.

It seems B also declined his attempts, at both sending money to Wise and another money remittance service. B spoke with Mr D on 7 January 2023 and carried out a near perfect intervention call – explaining exactly why this was a scam, and particularly relying on the multiple fees and charges that he was repeatedly being asked for. Mr D did not accept that it was scam, and insisted it was legitimate, but agreed to look into it. At the end of the call, before Mr D hung up, you could hear him discuss the matter with his family – who also said it probably was a scam, and that they should have had the money paid to them already.

Mr D says around this time he received a call from someone purporting to be a solicitor, who told him the original investment company he'd been dealing were scammers – and he was representing several people in trying to recover their stolen funds. He was also contacted by an 'asset recovery' company. Mr D spoke to his bank again, who advised getting his documents authenticated by an independent financial advisor. But he says he couldn't find anyone willing to make that judgement call. Eventually Mr D's own solicitor found discrepancies in the information, and thought the contact at S appeared to be impersonating someone else. So he advised it was likely a scam.

The matter was reported to the police and all the firms involved. Once notified of the fraud in January 2023, HiFX contacted the intermediary bank which processed the payments to initiate a recall – but that was unsuccessful. Mr D complained in July 2024, via representatives, and the letter said HiFX had failed to pick up on the out of character payments and hadn't intervened appropriately. HiFX's final response said it wouldn't have been inherently obvious Mr D was making payments towards an investment from the purposes he selected for the transfers, or involved in a scam from the circumstances. So HiFX didn't think it was liable to refund the payments. Mr D wasn't happy with the response, and so referred the complaint to our service for review.

One of our investigators looked at the complaint and didn't recommend it should be upheld. In her view, Mr D could have selected 'investment' as a better fitting option for the purpose of the transfers – and would have got a more tailored warning. But even if he had, it wouldn't have made a difference here. That's because Mr D had received relevant warnings from other banks, but those hadn't resonated. So the investigator didn't think further probing and warnings before making these payments would have prevented the loss.

Mr D didn't accept the investigator's opinion, and asked for an ombudsman to review things. So the complaint was passed to me for a final decision on the matter. He raised the following points for me to consider:

- While 'investment' may have been a more specific option to select for the purpose of the payments, it was not unreasonable for him to have picked 'other' given that many of these payments were for other costs and fees. A stronger intervention was needed, though, given the purpose selected didn't tell HiFX much about the risks involved.
- This was a new account, which carried a greater risk as victims are often told to open accounts with Electronic Money Institutions and transfer providers. Mr D argued that was due to the weaker transaction monitoring.
- This new account had large sums sent internationally, sometimes within a short time periods. HiFX should have been concerned about an elderly individual using the account in this manner – as such payment patterns rarely turn out to be legitimate.
- Mr D believed an appropriate warning and intervention would have uncovered the scam. He raised that he hadn't lied to HiFX, or any other firm during the scam, and argued there wasn't any evidence that an effective warning was ever given which he ignored.
- The investigator was relying on the interventions at T to reject the complaint, but only limited notes of those calls remain. So there is a significant lack of information and context. We also don't know what questions were asked or what warnings were given by T.
- Just because a warning is given, doesn't mean it's necessarily detailed, relevant or

appropriate. T's notes are not enough to say that the intervention was sufficient enough and that Mr D ignored an effective warning. He likely didn't understand why payments were being blocked, because an appropriate warning was not delivered.

- The scam was uncovered when his children recognised the situation as fraudulent due to demands for additional payments being made for varying reasons. That shows Mr D wasn't so under the scammer's spell that he ignored reg flags when they were highlighted to him. So HiFX ought to have been able to uncover what was happening during a discussion, with appropriate probing.

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 not upholding Mr D's complaint. I appreciate that will come as great disappointment to Mr D, who I know feels strongly that HiFX should have done more. I was also saddened to hear about how much the incident had affected him. There's no dispute that Mr D fell victim to a cruel and sophisticated scam. But what I must decide is whether HiFX ought to have done more – and if so, would that have made a difference here. On balance, I don't think it would have – and I've explained my rationale below.

In broad terms, the starting position in law is that a payment services provider is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the terms and conditions of the account and the Payment Services Regulations (PSR's). Mr D 'authorised' the transactions in question (he made them), albeit under the belief they were for a legitimate opportunity to purchase shares. So HiFX were under an obligation to process the payments – but that isn't the end of the story, as far as HiFX's responsibility in the matter goes.

While that's the starting position, I've also taken into account the regulator's rules and guidance; relevant codes of practice, along with what I consider to have been good industry practice at the time. I've also applied HiFX's terms for the account, which say it can delay or refuse payments where it's not satisfied about the purpose and nature of them. Those together mean I consider HiFX should fairly and reasonably have been on the lookout for the possibility of Authorised Push Payment (APP) fraud at the time, and intervened if there were clear indications its customer might be at risk.

HiFX has a difficult balance to strike in how it configures its systems. It needs to detect unusual activity, or activity that might otherwise indicate a higher than usual risk of fraud, whilst not unduly hindering legitimate transactions. There are many millions of payments made each day, and it would not be possible or reasonable to expect firms to check each one. In situations where firms do (or ought to) carry out checks, I would expect that intervention to be proportionate to the circumstances of the payment. HiFX did ask for the purpose of each payment, and offered general scam advice prior to processing these payments. So the question for me to decide is whether they ought to have looked concerning enough to have prompted further fraud checks.

Firstly, I should explain that these payments aren't covered by the voluntary scheme, called the Contingent Reimbursement Model (CRM) code, that some banks had signed up to at the time these were made. That scheme covered refunds for APP fraud in certain scenarios, but didn't apply to international payments – and HiFX wasn't a signatory to the code anyway. So Mr D would only be entitled to a refund if HiFX made a mistake when putting the transfers through (for example, if it didn't sufficiently act on clear indications he was being scammed).

I've thought about whether HiFX needed to do more in the circumstances, but I don't think it did. I appreciate the payments were large, but sending payment internationally is exactly why people open this type of account – so the activity here, even for a new account, would have been in line with how HiFX was expecting Mr D to use it. There also wasn't any prior account history to compare these transactions with, to know whether it was concerning out of character for him. I also don't think Mr D's age (early seventies) particularly added any extra obligation on HiFX – as he wasn't old enough to indicate potential vulnerability.

So I think asking for purpose and showing a warning based on the reason selected for the transfer was proportionate to the risks involved here (with the only real risk being the size of them). These were going to business accounts, rather than individuals, so what Mr D input (paying for services rendered) wouldn't have seemed inconsistent or concerning either. I don't think Mr D necessarily made a mistake by not selecting 'investment' as the purpose, as the costs he was being asked to pay didn't exactly fit the options shown. While that was unfortunate – it's not something HiFX was at fault for. The list of options can't capture every scenario.

Even if Mr D had selected investment as the purpose, I don't think a warning tailored to that would have resonated anyway – as it seems likely he had one of those shortly before these transfers (from T) and it hadn't prevented further payments. He was also told this was a scam by a couple of banks, and didn't seem to accept that advice – so I don't think there was a warning HiFX could have given that would have worked.

I take the point that HiFX didn't learn much from the intervention, given Mr D selected 'something else' – but I don't think that meant HiFX should have been on notice he was at risk of being scammed. People send large amounts of money abroad to companies for legitimate purposes all the time. There were significant time gaps between the payments too, and the amounts didn't escalate. So I don't think there were sufficient concerning factors present – like an obvious scam pattern developing – to have reasonably prompted HiFX to carry out more involved fraud checks.

Even if it could be argued that HiFX should have spoken to Mr D before processing any of these transfers, and during that intervention it uncovered he was being scammed, I don't think that would have prevented further losses. Mr D was determined to make these payments, and didn't readily accept he was being scammed despite being told that was the case by two banks. Even after a pretty much perfect intervention call from B, Mr D still thought the opportunity was legitimate. It took other converging factors to finally convince him, as I set out during my summary of events – and by the time he made these transfers not all of those red flags had materialised. So if HiFX had refused to make any of these payments and given warnings, I think Mr D would have still likely sent them to the scam through other channels. That's what he'd previously done the first time T told him he was being scammed, and what he attempted to do following the second time in January 2023 – but which point he was trying to use a third money transfer firm, to evade the fraud controls he was coming up against.

Having considered everything, and whilst I recognise that Mr D has sadly had this money stolen, I don't think HiFX could reasonably have been expected to prevent the loss. So, I'm not directing it to refund the payments he sent.

My final decision

My final decision is I don't uphold Mr D's complaint about HiFX Europe Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 28 July 2025.

Ryan Miles
Ombudsman