

The complaint

Mr C complains that Monzo Bank Ltd (Monzo) won't refund money he paid to an investment.

What happened

What Mr C says:

Mr C was looking at ways to invest money and he was recommended to look at an investment firm (which I will call firm X) by a friend. His friend showed him how it worked; he said he had done well and had made significant withdrawals.

Firm X seemed professional and Mr C became a member of a 'discord channel' – where he could see investors and evidence of firm X's authorisation certificate. Incentives were offered by firm X to attract other investors. All communications with firm X were by WhatsApp, but he also spoke to fellow investors.

Mr C transferred funds to other investors, who then in turn transferred money into his investment account in firm X. **(continued)**

The payments were:

| Date | Payment | Amount |
|------------------|-----------------------------------|---------|
| 8 September 2022 | Faster payment – person to person | £2,960* |

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|------------------|-----------------------------------|-------------------|
| 8 September 2022 | Faster payment – person to person | £7,000* |
| 9 September 2022 | Faster payment – person to person | £5,021 |
| 10 October 2022 | Faster payment – person to person | £9,800* |
| 11 October 2022 | Faster payment – person to person | £771 |
| 11 October 2022 | Faster payment – person to person | £6,325.37* |
| 12 October 2022 | Faster payment – person to person | £9,026.70 |
| 13 October 2022 | Faster payment – person to person | £1,075.63 |
| 8 November 2022 | Faster payment – person to person | £10,000* |
| 9 November 2022 | Faster payment – person to person | £1,322.02 |
| Total | | £53,301.72 |

*Scam warning sent to Mr C

Mr C made some small withdrawals into another bank account - which encouraged him to carry on. He re-mortgaged his house with the intention of getting a 'buy to let', but when the investment opportunity came up, he put the money into firm X instead.

Firm X created a crypto currency. Mr C says the firm then liquidated investors' accounts in exchange for another crypto currency – which then crashed in value, to the extent it became worthless. He thinks firm X may have been operating a 'Ponzi scheme' – so they could pay investors with new investor funds.

Mr C says there wasn't anything online at the time to suggest the investment was a problem. The website was professional and was used by thousands of customers.

As a result of what happened, Mr C has lost a lot of money and he re-mortgaged his house – so he will have to sell his home. He has two young children to support.

Mr C says Monzo should have done more to protect him. The bank didn't intervene or warn him. Had they done so, the bank could've asked for the URL of firm X and told him it was a scam. But this didn't happen.

Mr C says Monzo should refund the money he's lost plus interest at 8% per annum.
(continued)

What Monzo said:

Monzo didn't send a final response to Mr C, but in its evidence to us the bank said:

- The bank weren't advised of Mr C's losses until his advisors wrote to them in February 2024.
- Mr C was sent some 'low friction' and 'new payee' scam warnings (as I've shown in the table of payments), but each time Mr C confirmed he wanted to go ahead.
- There are pages on its website to educate customers about protecting their money.
- The bank didn't consider the payments were potentially linked to a fraud and didn't intervene or stop them.
- The bank considered the point of loss wasn't on Monzo's platform – the fraud occurred within firm X.
- Monzo had asked a number of questions of Mr C's advisors but hadn't had a response.

Monzo didn't refund any money.

Our investigation so far:

Our investigator upheld the complaint and said the money from the payment for £7,000 should be refunded, less 50% for contributory negligence; plus interest at 8% per annum.

She said Monzo should have intervened and had they done so, then Mr C would've been protected and not made the payments. She could see there were online reviews at the time describing the scheme that Mr C was entering into.

Mr C accepted this outcome, but Monzo didn't agree. Our investigator pushed back to the bank and didn't change her view. And so, Mr C's complaint has come to me.

I reached a provisional decision which didn't uphold Mr C's complaint. It said:

The starting point here is the nature of the scheme that Mr C was entering into. He has provided evidence to show that he was investing in firm X – which was registered under a Securities Dealer Licence with the Republic of Seychelles. It was regulated by the Financial Services Authority in the Seychelles. It was a company incorporated in the Republic of Seychelles and had a company registration number.

The scheme was said to be 'trading foreign exchange and/or contract for differences on margin...carries a high level of risk and may not be suitable for all investors'.

There were later (in 2023 and 2024) some warnings about firm X's associated companies in other jurisdictions.

In October 2022, the firm announced it would be changing its bitcoin structure; but the new coin subsequently had no value.

In Mr C's complaint, he says this was a scam and /or a Ponzi scheme. But I would note that firm X was a regulated company with a regulator in place. Of course, Mr C can complaint to the relevant regulator in this instance.

So the crux of this complaint is – whether Monzo could reasonably have been expected to intervene and warn Mr C about the investment he was making.

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 Monzo 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 Monzo acted fairly and reasonably in its dealings with Mr C 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. Monzo hasn't signed up to the Code, but they follow its principles.

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

Mr C did make some fairly large payments – I could see he made four ranging from £2,000 to £3,857 between July 2022 and September 2022. So, I don't agree with our investigator that Monzo should've intervened in the early payment for £7,000 – but could reasonably have been expected to do so by the payment for £9,800. Up to then Mr C had paid almost £15,000 over two days - and so an unusual pattern had been established.

But – I must consider what Monzo could've done had they contacted Mr C. Mr C argues Monzo could've been given the web address of firm X and seen that it was a potential scam or Ponzi scheme. But at the time it is the case:

- Firm X was a company properly registered in the Seychelles and regulated in that location.
- There were no online warnings or negative reviews prior to July 2022 or at the time Mr C was making the payments.
- Mr C has shown documentation about the firm, its licencing and the investment proposal he was entering into.
- He was introduced to the scheme by a friend.
- Mr C was in touch with other investors who were satisfied with the scheme.
- There weren't any adverse reviews about it to be found.
- He had got some payments from firm X.

So, even if Monzo had intervened and contacted Mr C, it's likely that the bank would've been told this and/or shown this documentation. It looked like Mr C was investing in a credible company. All the bank might have done is encourage Mr C to do further checks – but that would only have only led back to the information I've referred to.

And therefore I can't see how Monzo would've been able to advise Mr C not to go ahead or

questioned the payments.

I also note that Monzo weren't acting as Mr C's investment advisers and so had no duty to warn him about the suitability or risks in making the payments or the investment he was making.

Therefore, on the balance of evidence I've seen, I don't hold Monzo as liable to refund any money to Mr C.

We expect firms to quickly attempt to recover funds from recipient banks when a scam takes place. In this case, given that the payments were made in 2022, and Mr C complained to Monzo in February 2024 – there was little point in Monzo taking that action. In this connection, Mr C might wish to contact firm X's regulators.

Mr C has lost a lot of money. He's explained why the money was important to him, and the impact his losses have had. I was sorry to learn of his circumstances. He will therefore be disappointed by my provisional decision, but I'm not going to ask Monzo to do anything here.

Responses to the provisional decision:

Monzo made no comments, but Mr C did (through his advisors). He said (in summary):

- He couldn't see how an ombudsman could reach such a different decision to our investigator.
- Monzo should have intervened and asked open and probing questions but didn't.
- There were online warnings about firm X before July 2022 – contrary to what I said. He gave some links to some online reviews and warnings dated before then; including some Trustpilot reviews.
- He disagreed that any conversion between Monzo and himself would have led back to the fact that a regulator was in place for firm X.
- Monzo should have flagged that firm X wasn't FCA regulated and questioned why Mr C was investing in a company in an offshore jurisdiction - which has lower standards of controls compared to those in established financial centres such as the UK, US and EU.
- To get some payments from firm X – this was a typical characteristic of a Ponzi scheme, which Monzo should have been aware of.

I now need to consider these points and make 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.

I'm grateful for the points made by Mr C's advisors – which I have considered in the overall circumstances of his case.

Mr C's advisors will be well aware of our process and mandate – which is that if either the

complainant or respondent firm disagree with the first line investigator's view, then they can ask an ombudsman to look at the complaint – and this means a complete and independent review of the evidence. And that's what I have done here.

I agree that Monzo should have intervened but didn't – that was stated in my provisional decision. My decision comes down to what I believed Mr C would've said to Monzo had the bank done so.

Mr C argues that Monzo should've flagged the online warnings / reviews. But – I don't think it is reasonable to expect a firm to undertake an in depth review of (in this case) the reviews relating to firm X. I do think it is reasonable to have expected Monzo to have asked Mr C if he had done his research. And I see from his complaint letter (provided by his advisors) that he stated that he had done so.

This said: *"I looked online, looked at various different websites. I spoke to friends who had previously invested in (firm X).*

There were a few investors on the platform who I spoke to, and they informed it was working well for them. At the time, it was great as they were generating the profits, but it now makes it clear it was a Ponzi scheme and the profits were actually just deposits from other victims. I was added to a group...with numerous other investors - it all seemed above board. I looked for reviews online of the platform and did not find anything negative, which gave me confidence that it was legitimate."

So, I'm persuaded that if asked about what research he had done – Mr C would have said the same thing – that he had done online research and all looked satisfactory. I don't think it is reasonable to have expected Monzo to then investigate the reviews, disagree with Mr C's research and advise him not to go ahead.

Mr C also said in his complaint letter *"They could've asked me for the URL of (firm X) and advised it was a scam."* And I think that's what he is arguing in is response to the provisional decision. But - I don't think it is reasonable to have expected Monzo to go as far as to look into firm X in that way.

Similarly, if Mr C had told Monzo that firm X was regulated overseas, I don't think it is reasonable to expect the bank to give a view on the strength (or otherwise) of regulators in other territories. And as I said in the provisional decision, any discussion about the regulators of firm X would've led back to the regulator's website, and it was then for Mr C to decide whether to go ahead or not.

As I said in the provisional decision, the strong evidence that Mr C would've gone ahead – was the introduction from his friends who had previously invested and were apparently getting good returns, and his contact with other investors who were similarly pleased. And I'm persuaded that's what Mr C would've said to Monzo.

I accept that Mr C has lost a lot of money and he's explained the consequences for him are significant. But it is my role to reach a fair and reasonable decision based on the balance of evidence. And having done that, my final decision is unchanged from the provisional decision.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or

reject my decision before 27 February 2025.

Martin Lord
Ombudsman