

The complaint

Mr M complains that Bank of Scotland plc trading as Halifax won't refund money he lost when he fell victim to an investment scam.

Mr M is being represented by a claims management company.

What happened

The full details of this complaint are well known to the parties and have been previously set out by the investigator. I'll therefore provide an overview and focus on giving my reasons for my decision.

In May-June 2022, Mr M made two payments totalling £6,422 from his Halifax account in connection to what he thought was an investment opportunity, but which he now believes is a scam. He says he was invited to a webinar about investment opportunities and introduced to a broker "T". Mr M reviewed T's website as well as its brochures. He also researched the company online and reviewed customer reviews. Mr M understood he could earn between 5-7% monthly returns on his investment.

To make deposits, Mr M transferred Pounds Sterling to a third party's account. In return, the individual deposited the US Dollars equivalent into Mr M's account with T. Mr M states that T later converted every investor's holdings into its own cryptocurrency coin, and all communication stopped when the cryptocurrency coin became worthless. When he couldn't withdraw his investment, Mr M realised he'd been scammed.

Mr M complained to Halifax in 2024 about the bank not protecting him from falling victim to a scam. It said he hadn't contacted the bank about the matter prior to raising a complaint. As such, it hadn't investigated nor decided on whether to refund him. Halifax asked Mr M to contact the bank to raise a claim and provide further information. Unhappy with this response, Mr M referred the matter to our service.

One of our investigators looked into Mr M's complaint and concluded that Halifax didn't need to take any action. They thought the first disputed payment was unusual for the account. But had the bank questioned Mr M, the investigator wasn't persuaded the response and any documentation he would have provided would have given it cause for concern.

Mr M's representative disagreed with the investigator's findings and provided a substantial response in their appeal. In summary, they believe the information they've provided demonstrates that all of T's entities were operating fraudulently, and this would have come to light had Halifax intervened. They have highlighted that scam warnings were published about some of T's entities and have also provided online articles which refer to some of T's entities as a scam. The representative also argue that payments to introducer or mule accounts are covered under the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code), so they apply to Mr M's payments, and he should be reimbursed accordingly.

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'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I have read and considered everything that's been provided.

Mr M says he's been the victim of a scam and that Halifax ought to have intervened on the payments he made in 2022 which he's now disputing. I can see that the entity his dealings were with as mentioned in the complaint letter is incorporated in an overseas jurisdiction and remains regulated by that jurisdiction's regulator. I can also see that the specific entity was named on investor alert lists by two overseas regulators for carrying out certain activities without appropriate license. And in 2023, its regulator took steps to address management issues and shareholder influence.

While regulatory requirements can vary from one jurisdiction to another, a scammer is highly unlikely to submit itself to any kind of regulatory oversight, given the real risk of its true purpose being discovered. Some brokers may have promoted investment products using sales methods that were arguably unethical or misleading. However, while customers who lost out may understandably regard such acts or omissions as fraudulent, it's not sufficient evidence of an intention to defraud customers from the outset.

While I accept that T may not have been regulated to offer its services in the UK at the time of Mr M's payments (it did hold passporting rights previously), and there appear to be poor business practices in some areas, this doesn't automatically mean that T was set up to defraud customers.

Even if I were to accept that Mr M was scammed by T, it doesn't mean that Halifax becomes liable to reimburse or refund him. I'll explain why.

The CRM Code, which requires signatories such as Halifax to reimburse customers who are victims of authorised push payment scams in all but a limited number of circumstances, doesn't apply to Mr M's payments. We've been told that the individual Mr M sent payments to also didn't realise that T was operating a scam, so they were likely affected by its actions as well. Given the said individual's role in the transaction – exchanging one currency for another – it seems to me that when Mr M transferred the money to them, it was still under his (and their) control. That control was only lost when the individual made a payment to T.

The CRM Code only applies to certain types of payment made, in Pounds Sterling, between accounts based in the UK. But the payment the individual made was not in Pounds Sterling. And we've been told deposits were made to T's accounts held internationally. In the circumstances, where the funds were lost to an international account and in a different currency, the CRM Code doesn't apply.

Outside of the provisions of the CRM Code, Halifax ought to have been on the look-out for the possibility of fraud and made additional checks in some circumstances. Had the bank intervened at the time of the first transaction, which was not in keeping with the general account activity, like the investigator, on balance, I'm not persuaded that anything about Mr M's response would have indicated to Halifax that he was investing in a scam. He would have explained that he'd done as much due diligence as he could, and everything had checked out.

As there was no adverse information about T in the public domain at the time of the payments, other than the investor alerts which I've addressed above, I'm not persuaded that

an intervention would have impacted Mr M's decision to make the payment. His representative has provided website articles which make reference to T as a scam company. But these articles are from this year – nearly three years after the payments were made.

Thinking next about recovery of payments, the beneficiary of Mr M's payments provided the service requested. Namely, provision of US Dollars in exchange for Pounds Sterling. In the circumstances, I don't think Halifax could or should have done anything once Mr M reported the matter to it in 2024.

In summary, I know that Mr M will be disappointed with this outcome. Not least because the matter has been ongoing for some time and his representative's strength of feelings on this. Despite my natural sympathy, it wouldn't be fair of me to hold Halifax responsible for the loss Mr M alleges.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 June 2025.

Gagandeep Singh
Ombudsman