

## Complaint

Mr B is unhappy that National Westminster Bank Plc (NatWest) didn't reimburse him after he told it he'd fallen victim to a scam.

## Background

In early 2021, Mr B was offered an investment opportunity involving the management of his funds by an individual referred to as Mr V. Mr V was presented as a highly skilled forex trader who could generate exceptional returns for investors. He also informed Mr B that he intended to set up a hedge fund in an offshore jurisdiction, where all investor funds would eventually be managed. Another individual, referred to as Mr K, appeared to work alongside Mr V to recruit new investors.

Mr B was told he could expect a monthly return of 10% on his investment. He received regular investment updates from Mr V and Mr K, typically via email which included screenshots of the investment platform Mr V claimed to use for managing client funds. Mr V also provided monthly statements reflecting the performance of Mr B's investment. However, according to Mr B's representatives, there was no platform accessible to investors directly—all updates were communicated by email.

Before making his investment, Mr B participated in a video call where Mr V showed what appeared to be evidence of his track record. He also signed a formal contract, which, although lengthy and detailed, appeared reasonable to Mr B based on his limited experience with investments. Additionally, Mr B spoke to other investors, who claimed to have received returns from Mr V, which reassured him that the opportunity was legitimate. In particular, the investment was recommended to him by a friend (Ms K) who had also invested and whose family had received returns for several months.

On 15 March 2021, Mr B used his NatWest account to make a payment of £30,021. This was a CHAPs payment that was authorised in branch. There's limited information available as to what was discussed in branch and if any warnings were given to Mr B, but its system notes suggest he gave a misleading explanation as to the purpose of the payment. The purpose of the payment is recorded in the following terms:

*"Money being transferred to his business partner to pay of money they owe as the business has gone bust and need to pay what is owed."*

Mr B became concerned several months later when he attempted to withdraw money from the investment. Mr V informed him that he was experiencing minor issues with his account and urged Mr B to remain patient. Mr V also sent emails suggesting that his bank account would soon be re-opened. However, Mr B never received any returns from the investment.

Once Mr B determined that he'd fallen victim to a scam, he notified NatWest. It looked into things but it didn't agree to refund his losses. It wrote to him on 8 November 2022 and said it didn't think it had done anything wrong. It had simply processed Mr B's payment as requested. It also said it had done everything it could to recover his funds from the receiving account but that hadn't been possible.

Mr B wasn't happy with that and so he referred his complaint to this service. It was looked at by an Investigator who didn't uphold it. The Investigator considered the complaint under the terms of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. She considered that Mr B had made this payment without a reasonable basis for believing that the investment was a genuine one. Specifically, she thought he should've been more sceptical at being promised returns of 10% per month. As a result, she didn't think Mr B was entitled to reimbursement under the CRM Code.

Mr B's representatives disagreed with the Investigator's findings. They argued that high returns from hedge funds and forex speculation are not unusual due to their high-risk nature. Mr B maintains that he was shown detailed reports of Mr V's trading activity and, when he sought advice from someone with specialist knowledge, he was told that "10% is easy" in the context of high-risk investments like forex trading. They also highlighted that victims, including Mr B, had received seemingly genuine returns and communicated with each other, which gave further legitimacy to the investment in their eyes.

Because Mr B disagreed with the Investigator's opinion, the complaint has been passed to me to consider.

## Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I issued a provisional decision on this complaint on date 22 January 2025. I wrote:

*In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, that isn't the end of the story. NatWest is a signatory to the Lending Standards Board's Contingent Reimbursement Model Code ("the CRM code"). This code requires firms to reimburse customers who have been the victim of authorised push payment ("APP") scams in all but a limited number of circumstances.*

*The CRM Code doesn't apply to all payments. Mr B's payment is only covered if it meets the relevant parts of the definition of an APP scam under the CRM Code. For it to do so, Mr B must have "transferred funds to another person for what [he] believed were legitimate purposes but which were in fact fraudulent."*

*I have considered whether this scenario constitutes an APP scam under the CRM Code and, based on the available evidence, I am satisfied that it does. Mr B is not the only consumer to have raised concerns about Mr V. In several other cases that have been brought to this service, I have seen evidence showing that Mr V was not using client funds as intended. Instead, it appears he may have been using funds from new investors to pay returns to earlier investors or misappropriating the money for his personal use.*

*For those reasons, I'm satisfied that this case can be considered under the CRM Code. The starting position under the Code is that Mr B should be reimbursed unless NatWest can demonstrate that an exception applies. NatWest has argued that Mr B made this payment without a reasonable basis for believing that the investment opportunity was a legitimate one and that it provided him a warning during the payment process.*

*It's significant that the way the test is set out in the CRM Code isn't entirely objective and it allows me to take into account the characteristics of the customer. Mr B wasn't someone with any experience or knowledge of non-mainstream investment options. The returns promised by Mr V were certainly significantly higher than those typically available to a retail investor at the time. That might have prompted scepticism in the typical would-be investor.*

*However, there is a factor which distinguishes Mr B's case. He was persuaded to invest by a friend, Ms K. She had also invested and so had several members of her family. Two of Ms K's family members had received real returns over several months. These returns were not simply balances displayed on a trading platform – they were genuine payments made into their bank accounts. Mr B says that he was shown evidence of those returns and it was this that persuaded him the investment opportunity was a genuine one. I've also since seen evidence that payments were genuinely made to members of Ms K's family.*

*I don't find it unreasonable that someone, without specialist knowledge, would be inclined to believe this investment opportunity was a genuine one on seeing several close contacts receiving the returns that Mr V had also promised to Mr B. For that reason, I think on the facts of Mr B's case, I think he did make this payment with a reasonable basis for believing the investment was legitimate.*

*I've taken into account that Mr B gave a misleading reason for the payment to the branch staff. I understand he did this at the recommendation of Mr V and Mr K. This put NatWest in a difficult position so far as fraud prevention was concerned. I understand it provided him with a verbal warning during the branch visit. I don't know what its contents were, but it would've been informed by the payment purpose that Mr B had volunteered. It wouldn't, at that time, have had any reasonable basis for thinking Mr B was falling victim to an investment scam. I don't think it could realistically have done anything to prevent this scam. Nonetheless, the expectation that NatWest pay a refund under the CRM Code isn't dependent on whether the scam could've been stopped. Its expected to pay a refund unless an exception to reimbursement under the Code applies and, for the reasons I've explained above, I'm persuaded that no exception applies here.*

Mr B accepted the provisional decision, but NatWest didn't. It said that Mr B should've been concerned at the promised returns and carried out far greater due diligence than he did. It said it was insufficient to rely on information from friends when he was new to investing. It also said that, since Mr B lied about the reason for the payment, NatWest hadn't been able to provide an effective warning which might have prevented the scam.

I've considered these new arguments carefully, but I'm not persuaded to change my view. I've considered whether Mr B should've carried out further checks and whether he acted reasonably in relying on the recommendation of his friends. It's important to note that his friends hadn't simply told him that investing his money with Mr V would be a good idea. He'd seen that several people to whom he was closely connected had genuinely earned returns and that those returns had been paid into their bank accounts. I might have concluded differently if Mr B's contacts had only shown him statements for the fraudulent investment account or updates from the fraudsters regarding the performance of the investment. In those circumstances, a greater level of scepticism would be justified. But on the facts of this case, Mr B had some compelling evidence that the investment was a genuine one.

Fundamentally, Mr B fell victim to a form of psychological contagion. Early investors in this scheme earned impressive returns and enthusiastically shared this information with people close to them. The fact that it seemed to Mr B that people he knew were earning such

excellent returns was a strong draw and he likely feared missing out on the opportunity. Having said that, the evidence I've seen suggests he didn't invest immediately. He waited for several months to see how other people got on. That suggests a baseline level of caution. It's quite a finely balanced issue, but overall, I'm satisfied that Mr B didn't make this payment without having a reasonable basis to believe that investment was a genuine one.

I've also considered the fact that he didn't give a truthful reason for the payment when he went into branch. I have some sympathies with NatWest's argument here – if Mr B had been open and honest with the bank when he made the payment, it's *possible* it could've prevented him from falling victim to the scam.

Despite that, I've considered this complaint by applying the terms of the CRM Code. The Code doesn't make NatWest's obligation to reimburse a customer dependent on it having been at fault or failed to protect its customer from financial harm. It's clear that a customer who has fallen victim to an APP scam should be reimbursed unless an exception to reimbursement applies. For the reasons I've explained above, I'm not persuaded that there is a valid exception to reimbursement here.

### **Final decision**

For the reasons I've explained above, I uphold this complaint.

If Mr B accepts my final decision, National Westminster Bank Plc needs to refund the payment he made in connection with the scam. It also needs to add 8% simple interest per annum calculated to run from the date it declined his claim under the CRM until the date any settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 March 2025.

James Kimmitt  
**Ombudsman**