

The complaint

Mr and Mrs S complain that Lloyds Bank PLC did not reimburse the money Mr S lost to a scam.

What happened

An old friend of Mr S introduced him to an individual I will call Mr M, who he believed was a director of an investment company ('V'). Mr S's friend had invested with V and made a profit, and Mr S was interested in the investment opportunity V was offering.

Mr S and Mr M began corresponding and Mr S was sent a detailed brochure setting out the potential investment. Mr S has said he also carried out his own research on V and its directors. He was satisfied with what he had found, so Mr and Mrs S decided to invest in the scheme.

Mr S went through the process of setting up a trading account at V, including providing various information to verify his identity, and he was given details so he could log in to the account he had opened on V's platform. On 31 August 2022 Mr S made a payment for £20,000 to one of V's directors.

Mr S received regular updates on the investment, and could see how it was performing by logging into his account at V. But in early 2023 he received an email explaining that the FCA had asked V to stop trading. Subsequent updates about the FCA's investigation into V led Mr S to believe that V had been operating a scam, so he contacted Lloyds to ask them to refund the loss.

Lloyds declined to refund Mr and Mrs S's loss, it said it believed this was a civil dispute rather than a scam, and said that it would need to await the outcome of the FCA's investigation into V.

Mr and Mrs S referred their complaint to our service and our Investigator looked into it. Having reviewed the complaint, they felt this complaint could be fairly determined without waiting for the FCA investigation to be completed. They were also satisfied that Mr and Mrs S had been the victim of an APP scam. They therefore assessed the complaint under the Lending Standards Board's Contingent Reimbursement Model ("CRM") Code, which was in force at the time of the payment Mr S made.

Having done so they felt Mr S had a reasonable basis for believing the investment was genuine, and had not ignored any effective warnings relating to the payment made, so they did not think an exception to reimbursement applied. They therefore recommended a full refund of the scam payment, plus interest.

Mr and Mrs S accepted the findings, however Lloyds did not, it maintains that any decision should be delayed until the FCA investigation is complete. As an informal agreement could not be reached, the complaint has been passed to me for 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.

Is it appropriate to determine this complaint now?

I have considered whether it would be appropriate to delay my decision in the interests of fairness, as I understand that the FCA investigation is still ongoing.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations and/or related court cases. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way. I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint; and, even if the prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (which is the balance of probabilities).

In order to determine Mr and Mrs S's complaint, I have to ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that they were the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm also aware that Mr and Mrs S first raised the claim with Lloyds in 2023 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving Mr and Mrs S an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm aware the above processes might result in some recoveries for V's investors; in order to avoid the risk of double recovery, I think Lloyds would be entitled to take, if it wishes, an assignment of the rights to all future distributions to Mr and Mrs S under those processes in respect of this investment before paying anything I might award to them on this complaint.

For the reasons I discuss further below, I don't think it's necessary to wait for the outcome of the FCA's investigation, or any criminal investigations that might follow that, for me fairly to reach a decision on whether Lloyds should reimburse Mr and Mrs S under the provisions of the CRM Code.

Have Mr and Mrs S been the victim of an APP scam, as defined in the CRM Code?

It isn't in dispute that Mr S authorised the payment that is the subject of this complaint. Because of this, the starting position – in line with the Payment Services Regulations 2017 – is that Mr and Mrs S are liable for the transaction. But Mr and Mrs S say they have been the victim of an authorised push payment (APP) scam.

Lloyds was a signatory of the voluntary CRM Code, which provided additional protection to scam victims at the time this payment was made. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam

(except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. I have set this definition out below:

...a transfer of funds executed across Faster Payments...where:

- (i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or*
- (ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.*

The CRM Code is also explicit that it doesn't apply to private civil disputes. The wording in the code is as follows:

This Code does not apply to:

- b) private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.*

I've therefore considered whether the payment Mr S made here falls under the scope of an APP scam as set out above. Having done so, I think that it does.

I say this because our service is now aware of a number of issues related to V, which suggest to us it is more likely they were carrying out a scam. Specifically:

- We are now aware that V's claims of being at least in the process of being regulated with relevant bodies such as the FCA in the UK and the CSSF in Luxembourg are false.
- There is no evidence to substantiate V's claims around the profits they say they were able to generate via Forex trading.
- Less than half of the funds sent to the two founders was potentially used for the intended purpose of Forex trading. Whereas Mr S sent funds to V with the understanding they would immediately be moved to a trading account to be used in Forex trading.
- V's account provider has shown that when V applied for accounts it lied at least twice, this was about partnering with a trading exchange and that it was regulated.
- We have also seen evidence that none of the funds sent to V's business accounts was used for the intended purpose of trading in Forex.

Considering all of the above, I do not think V was using investor funds, such as Mr and Mrs S's, for the purpose they were intended for. And I think this difference in purpose is down to dishonest deception on V's part. It follows that I think this complaint meets the definition of an APP scam as set out in the CRM Code above.

Returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so. In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues. In regard to the FCA's investigations, there is no certainty as to what, if any, prosecutions may be brought in future, nor what, if any, new light they would shed on evidence and issues I've discussed.

Are Mr and Mrs S entitled to reimbursement under the CRM Code?

I've considered whether Lloyds should refund Mr and Mrs S under the provisions of the CRM Code.

Under the CRM Code the starting position is that a firm should reimburse customers who have been the victim of an APP scam, except in limited circumstances. These circumstances include where the firm can establish that the customer made the scam payments without a reasonable basis for believing that they were for genuine goods or services; and/or that the payee was legitimate.

So, I've thought about whether Mr S had a reasonable basis to believe V was legitimate and was providing a genuine investment product. In doing so, I have considered that Mr S was introduced to Mr M by someone he trusted, and who he had known for over 20 years. This person had also invested themselves and told Mr S they had received returns on their investment. I think this first-hand account of a successful investment from someone he knew well would have been compelling for Mr S.

Mr S also received a brochure with an FAQ which looked to be professional and was able to view information about investments on a professional looking portal. Lastly, he carried out his own checks on the individuals involved in the investment, and what he found satisfied him that V was legitimate. Mr S has also commented that he was given detailed explanations around why V was not yet regulated.

In addition, it appears that Mr S was not an experienced investor, and so some of the issues which may have been seen as a red flag by someone more experienced – such as the payment being made to a personal account, and the high rate of returns – would not necessarily have caused him concern, particularly as he was aware that someone he knew and trusted had received returns from the investment as promised by V.

So, given what Mr and Mrs S had been told and had seen, I think there was enough to reasonably convince them that this was a genuine investment they could trust. With this in mind, I don't think Mr S made the payment without a reasonable basis of belief that V and the investment itself was genuine. I therefore do not think Lloyds can apply an exception to the reimbursement for this reason.

Lloyds could also refuse to reimburse Mr and Mrs S in full if it could demonstrate that they had ignored an effective warning, by failing to take appropriate steps in response to that warning. But Lloyds has not provided any evidence of warnings given to Mr and Mrs S relating to the payment that is the subject of this complaint, so I cannot reasonably say that this exception applies.

With all this in mind, I consider that none of the relevant exceptions to reimbursement apply in this case, it follows that I consider Lloyds should reimburse Mr and Mrs S in full.

Putting things right

Lloyds should reimburse Mr and Mrs S's loss in full.

It should also apply 8% simple interest from the date of the Investigator's view to the date of settlement. I say this because the information our service has relied upon to uphold Mr and Mrs S's complaint was not readily available to Lloyds when the scam claim was first raised. So, it would not have been able to identify the issues that led to the complaint eventually being upheld.

My final decision

I uphold this complaint. Lloyds Bank PLC should now put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 18 December 2025.

Sophie Mitchell
Ombudsman