

## The complaint

Mr S complains that NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY ('NatWest') hasn't reimbursed the money he says he's lost to a scam.

## What happened

Mr S says he's fallen victim to an investment scam.

He'd been following a Financial Conduct Authority ('FCA') regulated individual ('the marketer') on social media for approximately one year when they reached out to him about an investment opportunity with a company I'll refer to as 'V'. The marketer invited Mr S to attend a webinar, during which they gave him, and other potential investors, information about how V invested client money and the benefits of investing with it.

The marketer:

- Explained that V was regulated by the Commission de Surveillance du Secteur Financier ('CSSF') in Luxembourg and going through the process of getting a licence in the UK from the FCA. She said she was V's FCA-regulated sponsor in the meantime.
- Demonstrated that she had invested with V. The returns she showed she'd made were modest and seemed more realistically achievable than the potential returns Mr S had seen projected elsewhere. Mr S was told that he would make small profits, often, from daily investment activity.

Mr S has said that he trusted the marketer due to her online presence and regulatory status, but he carried out the following due diligence of his own and saw no 'red flags':

- He reviewed V's professional website and high-quality marketing material.
- He questioned the requirement of sending investor money to personal accounts – he was told that V's founders had only previously invested on behalf of friends and family and, as the company was new, it was still in the process of setting up a business bank account. He found this explanation to be plausible and he saw the money he invested appear in his account with V as expected.
- He met V's founders in-person (in October 2022), along with other satisfied customers of V. He thought that the founders were credible, and this, coupled with the performance of his initial investment, persuaded him to keep investing with V.

During the account opening process with V, Mr S signed documentation and was taken through 'Know Your Customer' ('KYC') checks.

Mr S made the following payments to V from his NatWest account:

Date of payment	Amount of payment
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14 September 2022	£15,000
15 September 2022	£10,000
17 October 2022	£15,000
18 October 2022	£10,000
5 November 2022	£15,000
5 November 2022	£15,000

Mr S was given access to a fake trading platform and saw his investment perform well. However, he hasn't been able to withdraw any profits, and V is now being investigated by the FCA.

Mr S raised a scam claim with NatWest in September 2023. He asked the bank to reimburse him under the provisions of the Lending Standards Board's Contingent Reimbursement Model ('CRM Code'). He said that NatWest's systems failed to pick up on out of character transactions that were indicative of fraud and, had the bank made an appropriate intervention, the fraud would've been prevented.

NatWest said it was unable to investigate Mr S' scam claim or provide an outcome due to the FCA's investigation of V.

Mr S brought a complaint to this Service against NatWest. He said it is clear that V was operating a scam because:

- There are numerous regulator warnings about V – including from the FCA – for unauthorised activity.
- No returns were paid.
- V was unlicensed and victims were lied to about its regulatory status and being sponsored for an FCA licence.
- V took money into personal accounts.
- There is no evidence of actual trading.
- V never filed any accounts.
- The standard pattern of the most common investment scams is present here, namely, money was taken into an account not clearly linked to V before appearing as deposits in an MT5 enabled account – customers were then shown consistent and impressive returns to encourage them to invest more.

Mr S asked this Service to consider instructing NatWest to reimburse his financial loss.

#### What did our investigator say?

Our investigator was satisfied that Mr S' situation meets the CRM Code definition of an Authorised Push Payment ('APP') scam, and that the FCA's investigation of V would have no impact on this. So, he assessed the case under the provisions of the CRM Code and found that NatWest should fully reimburse the disputed payments and pay interest at a rate of 8% per annum from the date it said it couldn't yet consider Mr S' scam claim to the date of settlement.

Mr S accepted our investigator's findings, but NatWest did not. In summary, the bank said it

does not believe that this Service can make a fair decision until external investigations are complete.

### **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 an FCA investigation into V is still ongoing.

There may be circumstances and cases where it's appropriate to await the outcome of external investigations. But it may also be possible to reach conclusions on the main issues based on the evidence already available.

In order to determine Mr 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 he's been the victim of a scam here. I wouldn't proceed to that determination if I considered that fairness to the parties demands that I delay. But I need to bear in mind that this Service exists for the purpose of resolving complaints quickly and with minimum formality, so delaying giving Mr S an answer for an unspecified length of time would be inappropriate unless truly justified. As a general rule, I wouldn't be inclined to think it fair to postpone reaching a decision unless, considering the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the main issues.

For the reasons I will set out in full below, I don't think it's necessary to await the outcome of the FCA's investigation into V in order to reach a fair outcome in this case.

I'm aware that my decision not to postpone determining this case might lead to 'double recovery'. I think that NatWest would be entitled to take, if it so wishes, an assignment of the rights to all future distributions to Mr S in respect of this investment before paying any redress I award.

#### *Has Mr S been the victim of an APP scam, as defined in the CRM Code?*

It isn't in dispute that Mr S 'authorised' the disputed payments. Because of this, the starting position is that he's liable for the transactions. But NatWest was signed up to the CRM Code, and it was in force when the disputed payments were made. And the CRM Code provides additional protection to APP scam victims, as Mr S claims to be.

Under the CRM Code, the starting principle is that a firm should reimburse a customer who has been the victim of an APP scam. But the CRM Code only applies if the definition of an APP scam, as it sets out, is met. I have included the CRM Code's definition of an APP scam 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. It says:

*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 payments Mr S made to V fall under the scope of an APP scam as set out above, and I think they do. I'll explain why.

Our Service is now aware of a number of issues related to V, which suggest it was more than likely operating a scam. For example:

- V's claims of at least being in the process of becoming 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 it was able to generate via Forex trading.
- Less than half of investor's funds sent to the founders of V were potentially used for the intended purpose of Forex trading, and I understand that investors sent funds in the belief that 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 – about partnering with a trading exchange and its regulatory status.
- None of the funds sent to V's business accounts were 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 S' £80,000, 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'm satisfied this complaint meets the definition of an APP scam as set out in the CRM Code.

Returning to the question of whether, in fairness, I should delay reaching a decision in this case pending developments from external investigations, I have explained why I should only postpone my decision if I take the view that fairness to the parties demands that I should do so. In light of the evidence already available to me here, I do not consider it likely that postponing my decision would help significantly in deciding the main issues. In regards to the FCA's investigation of V, 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 the evidence and issues I've discussed.

#### *Is Mr S entitled to reimbursement under the CRM Code?*

I've considered whether NatWest should refund Mr S under the provisions of the CRM Code. Two exceptions to full reimbursement could apply in this case, if:

- Mr S ignored an effective warning that NatWest gave during the payment journeys; and/or
- Mr S made the disputed payments without a reasonable basis for belief that the payee was the person he was expecting to pay, the payments were for genuine

goods or services and/or the person or business he was transacting with was legitimate.

NatWest says it gave a warning on some of the disputed payments, but not all of them. I've looked at the warning NatWest says it gave, and I don't consider it to be effective. It doesn't cover off enough of the common key features of investment scams to bring it to life, and it doesn't warn of the consequences of proceeding. Additionally, I don't consider that the suggested steps ought to be reasonably meaningful to a layperson.

As NatWest didn't give a warning on all of the disputed payments, and the warning it gave on some of the payments wasn't effective, I'm not satisfied that Mr S ignored an effective warning that NatWest gave, so that exception to reimbursement is not applicable here.

From what I've seen, I'm persuaded that Mr S had a reasonable basis for belief in this case, so I'm not satisfied that this exception to reimbursement applies either. He:

- Had followed the marketer on social media for approximately one year before they reached out to him about investing with V, and he was aware that they were FCA-regulated.
- Attended a webinar along with other potential investors, during which he was shown that the marketer had invested with V and received modest returns which seemed reasonably achievable and not too good to be true.
- Was reassured that, although V did not have an FCA licence, the marketer was V's FCA-regulated sponsor.
- Reviewed V's professional website and high-quality marketing material.
- Questioned the requirement of sending money to personal accounts and received an explanation he found to be plausible.
- Was given access to a fake trading portal and saw his money appear in his account with V as expected.
- Met V's founders in-person.
- Signed documentation and was taken through KYC checks during the account opening process, as would be expected with a legitimate business.

It's not clear what, if anything, Mr S thought of V's lack of presence on Companies House but, considering all of the other points above, I think there was enough to reasonably convince Mr S that this was a genuine investment with a legitimate business.

### **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint and instruct NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY to reimburse Mr S in full and pay interest at a rate of 8% simple per annum from the date his scam claim was answered to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 July 2025.

Kyley Hanson  
**Ombudsman**