DRN-5360581

The complaint

F complains that Starling Bank Limited has declined to reimburse the funds that have been lost to a scam from its account.

Mr S is a director of F and brings the complaint on F's behalf.

F is represented by a claims management company which I'll refer to as 'M'.

What happened

There are two relevant parties to introduce, I'll call them 'U' and 'A'.

U offered opportunities to invest in properties that were to be used by different local councils for emergency and social housing.

A was the company that was securing contracts with local councils and sourcing many of the properties which were to be used and invested in.

F's directors were attracted to the investment and decided to go ahead. In total, they paid £120,000 to U from F's Starling bank account (£0.74 on 8 April 2022 and £119,999.26 on 11 April 2022). F's directors signed agreements with U. U then sent the money on to A.

F started to receive returns into its account as promised. A total of £23,000 was received (£11,500 on 20 June 2022 and £11,500 on 20 July 2022). The returns were paid by U. But after July 2022, the payments stopped.

It was shortly after this that Mr S, U, and some other involved parties, began to suspect that A had been operating a scam, in the form of a Ponzi scheme. As more information was revealed over time, it became apparent that A had never secured the contracts with local councils it said it had. These were essential to the proposition A had put forward, and so there appeared to be evidence that a scam had taken place.

Mr S contacted M for help. It in turn contacted Starling to report the scam and request a refund. M asked that Starling reimburse F under the provisions of the Lending Standards Board's ('LSB') Contingent Reimbursement Model ('CRM Code'). But Starling didn't reimburse F and so the complaint was referred to this Service.

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.

It's important to state at the outset that it's not clear whether F has lost money here, or F's directors in their personal capacity. The disputed payments were made from F's account, but the facility agreement was between F's directors and U. As I don't consider that it makes a difference to the outcome of this case, I will proceed on the understanding that F has lost money.

I'm sorry to disappoint Mr S, but I'm not upholding F's complaint. I'll explain why.

It's clear that the relevant investment was made in good faith, and F hasn't seen the promised returns. Nor has the invested capital been returned to F. But there aren't grounds here upon which I can hold Starling responsible for F's loss.

The starting point at law is that F is responsible for payments made from its account which are properly authorised. This is set out in the Payment Services Regulations and confirmed in F's account terms and conditions. There's no dispute here as to authorisation – F's directors made the payments from F's account, and the payments went to U as intended.

M, in bringing the complaint, has referred to the CRM Code as a means for seeing F reimbursed. It is true that the CRM Code was in place to see the victims of scams refunded in most circumstances. But I'm not persuaded it applies to the disputed payments. That's because they don't meet the definition of an Authorised Push Payment ('APP') scam.

I can broadly accept, for the purposes of this decision, that A was operating a scam. There does appear to be some significant evidence of that being the case. But F and its directors didn't have a relationship or any direct dealings with A. Dealings were solely with U. It was U that F's directors were in communication with about the investment opportunity. It was also with U that F's directors signed agreements for the purposes of the investment, and it was U that F sent money to and received returns from.

M has said it believes that A has misappropriated F's money, apparently accepting that U was itself a victim of the scam run by A. But this means that F hasn't made payments for a fraudulent purpose which was other otherwise believed to be legitimate.

The CRM Code states that it applies to payments where, "the customer transferred funds to another person for what they believed were legitimate purposes but were in fact fraudulent."

There's no doubt that F's directors believed the other person – U – was legitimate. But the purpose of making payments to U was legitimate too, and not fraudulent.

F had a genuine relationship with U. U made no attempts to deceive F into parting with money. F paid U directly, with the contractually reinforced understanding that it would be U that paid F returns, as indeed it did. F's directors relied on U's expertise in sourcing the investment, and trusted in its due diligence, when deciding to invest.

It's clear that U was set up as a business in its own right. It had its own accounts, was a properly registered company, and entered into contracts with clients. U was making (or intended to make) money from clients it introduced to A's investment scheme.

The facility agreement is only with U and states the money would be loaned to U for its property business. There is no mention of A, or of specific projects. F's funds went to U, with the purpose of being invested through U. U was responsible for handling F's money and paying its returns.

This Service has discussed this precise scenario with the LSB, and it agreed that the CRM Code would not apply to payments made in this way, where a legitimate business with whom all agreements/contracts were entered into, providing what it itself believed to be a legitimate service, is involved and where it was itself scammed.

Looking beyond the CRM Code, at a firm's responsibilities to protect customers from financial harm through fraud, I can still not find reason to say Starling ought to bear responsibility for F's loss. The reasoning here is broadly the same as above, given the

disputed payments wouldn't be defined as being made as part of an APP scam. But, beyond that, if Starling had intervened in the disputed payments and questioned F's directors, I'm not persuaded it could've uncovered that an APP scam was taking place. In making that finding, I've considered the level of sophistication of the scam, and how persuasive it was.

As for attempts to recover funds, such attempts could only ever be made if a scam were established. And the attempts would only go so far as the account that received them, that being the one held by U. It's evident that, as a legitimate entity, U transferred F's money on as intended, which meant there was nothing left to recover.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask F to accept or reject my decision before 24 July 2025.

Kyley Hanson
Ombudsman