

Complaint

Mrs A is unhappy that Bank of Scotland plc trading as Halifax didn't refund her after she reported falling victim to a scam.

Background

The background to this case is well known to the parties, so I don't intend to set it out in full here. What follows is a summary of the key facts.

In May 2021, Mrs A fell victim to an investment scam. She was introduced to an investment opportunity by a person she'd met face-to-face who was acting as an introducer for an investment platform. She was told that she could expect to treble the funds she invested. She was persuaded the opportunity was legitimate when she attended online events and saw that a large number of people from across the world appeared to be participating in the investment. She transferred a little under £8,000 in multiple payments between May and August 2021. She was given access to her own account on an online platform so that she could monitor the value of her funds.

Mrs A says she realised the investment was a scam when she tried to withdraw funds but wasn't able to do so and was met with delaying tactics. Once she determined that she'd fallen victim to a scam, she notified Halifax. It looked into the matter but didn't agree to uphold her complaint. It didn't think that she'd taken reasonable steps to protect herself and so it didn't think it could be expected to reimburse her.

Mrs A wasn't happy with that response and so she referred her complaint to this service. It was looked at by an Investigator who didn't uphold it. Mrs A remained unhappy and so the complaint has now been passed to me to make a final decision.

Findings

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

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 (in this case, the 2017 regulations) and the terms and conditions of the customer's account.

However, that isn't the end of the story. Halifax was a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). Under the CRM Code, firms are expected to reimburse customers who fall victim to authorised push payment (APP) scams in most circumstances, subject to several exceptions.

In addition to that, good industry practice required that Halifax be on the lookout for account activity or payments that were unusual or out of character to the extent that they might indicate a fraud risk. On spotting such a payment, I'd expect it to take steps to protect their customer. That might be as simple as providing a written warning as part of the payment

process or it might extend to making contact with the customer to establish the circumstances surrounding the payment.

Some of these payments were covered by the CRM Code, and some were not. As a result, different considerations apply. I've dealt with each separately below.

CRM Code

Halifax should refund those payments covered by the CRM Code, unless an exception applies. In this case, it has relied on the following exception:

“A Firm may choose not to reimburse a Customer if it can establish ... the Customer made the payment without a reasonable basis for believing that ... the person or business with whom they transacted was legitimate.”

I accept that Mrs A sincerely believed she was making payments for a genuine investment opportunity. However, I don't think that belief was a reasonable one. Mrs A said she expected to triple her money in a short period of time. I think that promised return wasn't realistic and it should've occurred to her that the opportunity might be too good to be true. I think she should've only proceeded with great caution.

Mrs A says she attended webinars and researched the opportunity in depth. However, a warning about the scheme had been published by the regulator, the Financial Conduct Authority, by the time she was making her payments. I think it's likely she would have seen this if she had carried out online research into the opportunity.

She says she believed she was investing in a legitimate opportunity. It had been promoted to her by someone she knew personally, and I think it's likely they talked it up as an investment opportunity. Even so, I've seen that she had documentation from the scheme itself which clearly stated it wasn't an investment or financial product. This suggests a disconnect between what she was being told by the promoter and what the scheme was actually offering.

Overall, I'm not persuaded that she had a reasonable basis for believing this to be a genuine investment opportunity.

The CRM Code also requires firms to provide effective warnings if they identify (or ought to identify) an APP scam risk in connection with payment activity. I've reviewed Mrs A's transaction history for the six months prior to the scam. I don't think the payments represented a significant departure from her usual activity in terms of value or pattern. Many of the payments were low in value and spread out over time. That meant that Halifax was in a more difficult position when it came to identifying the risk that these payments might have been connected to a fraudulent investment. These payments didn't, in my view, present a clear fraud risk that required intervention and so I don't think Halifax acted unreasonably by not providing warnings at the time.

Other issues

I've also considered those payments that aren't covered by the CRM Code. In respect of those payments, Halifax was required by good industry practice to be on the lookout for account activity or payments that were unusual or out-of-character to the extent that they represented a fraud risk. I'm not persuaded that it had good reason to think any of these payments were connected to fraud for the reasons I've already explained. As a result, I don't think it did anything wrong in processing them without questioning them.

For the sake of completeness, I've also considered whether it did everything it should have to recover Mrs A's money. She reported the scam to Halifax in May 2024, which was around 2-3 years after these payments were made. Fraudsters tend to move illicitly acquired funds on from receiving accounts as swiftly as possible. As a result, by the time she reported the fraud to Halifax, there was no realistic chance that her funds were still in the receiving account. I therefore don't think that Halifax's actions had any material impact on the prospect of recovering her money.

I don't say any of this to downplay the fact that Mrs A has fallen victim to a cruel and cynical scam. I have a great deal of sympathy for her and the position she's found herself in. Nonetheless, for the reasons I've explained above, I'm satisfied this is a fair and reasonable outcome in all the circumstances,

Final decision

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 8 August 2025.

James Kimmitt
Ombudsman