

The complaint

Mr M is unhappy Lloyds Bank PLC won't reimburse money he lost to a scam.

What happened

In September 2020 Mr M invested in an unregulated company ("K"). It claimed to be involved in providing bridging loans. Mr M believed he was purchasing a £2,500 '2-year fixed rate bond' with a return of 5.82% per year.

He paid that amount to a regulated entity ("N") who passed it on to K, though Mr M says he has had no dealings with N and was simply directed to make the payment to that account. Mr M received credits of accrued interest into his account until late 2021. It appears that around this time K said that it would no longer pay interest monthly but, instead, it would be compounded and paid on maturity.

In March 2022, Mr M queried this, but K didn't respond. In early 2023, he reported the matter to Lloyds. It initially directed him to the Financial Services Compensation Scheme ("FSCS"), but in late 2023 told him he was involved in a civil dispute, rather than a scam. That meant he wasn't eligible for reimbursement under the Lending Standards Board's Contingent Reimbursement Model Code ("CRM Code"). But Lloyds did award him £75 for its poor service.

Mr M referred the matter to our service and one of our investigators upheld his complaint. They were satisfied that Mr M had fallen victim to a scam and no exception to reimbursement under the CRM Code applied. They also thought Lloyds should pay Mr M an additional £75 in compensation to reflect the time he'd spent trying to raise the claim with Lloyds.

Lloyds didn't agree, in summary it said:

- K was a genuine company as evidenced by the fact it was on Companies House.
- An investigation by the liquidator and Official Receiver is still ongoing – so any finding that K was a scam is premature.
- There is no criminal investigation into K.
- A reviews website suggests K did provide bridging loans.
- The FCA hasn't issued any warnings about K.
- A fraudulent company wouldn't provide warnings about the high-risk nature of an investment, as K did.

As no agreement could be reached, the case was 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.

Lloyds are a signatory of the CRM Code. It requires firms to reimburse victims of APP scams in all but a limited number of circumstances. It does not cover 'private civil disputes'.

So, the key point of dispute is whether Mr M fell victim to an APP scam or was involved in a civil dispute. The CRM Code defines an APP scam as:

'a transfer of funds executed across Faster Payments, CHAPS or an internal book transfer, authorised by a Customer in accordance with regulation 67 of the PSRs, where:

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

Mr M wasn't deceived into transferring to a person other than he intended, so I need to decide whether he transferred funds to N for what he believed was a legitimate purpose but was in fact fraudulent.

I've considered the submissions of both parties carefully, but I'm satisfied that Mr M fell victim to a scam. In reaching this conclusion, I've put particular weight on the fact that:

- The Insolvency Service has confirmed that after reviewing K's accounts there 'is little evidence of any bridging loans being provided with the investments'; and
- It also stated that K appears to have been operating as a 'Ponzi' scheme.

While I acknowledge that some investigations are ongoing, I find the above statements persuasive evidence that Mr M fell victim to a scam. A 'Ponzi' scheme is fraudulent in nature and such a description generally suggests there was never any intention to use the funds in the way promised.

Mr M's experience of K is not inconsistent with it operating as The Insolvency Service has stated. He received returns for a period of time, was then told that interest would be payable on the maturity of the bond and subsequently wasn't able to contact K.

Lloyds points to a reviews website which it says contains 'verified buyer' reviews that claim K did in fact provide bridging loans. Putting aside that The Insolvency Service is likely in a far better position to assess whether any such loans were provided, there are also a number of 'verified buyer' reviews on that website which are clearly advertising recovery scams. It seems extremely unlikely that those reviews have been through a stringent vetting process. I therefore put little weight on the veracity of the reviews.

It is not the role of the FCA to issue warnings about every limited company that might be operating fraudulently. It does so where it has reason to believe that a company is providing financial services requiring authorisation without being authorised to do so. I understand that K would not be required to be authorised for the activities it was undertaking.

While I acknowledge that K does not appear to be the subject of an ongoing police investigation, the police have limited resources and must take into account a range of factors when deciding to pursue a criminal investigation. I do not find this to be determinative.

I also put little weight on the suggestion that a fraudulent company wouldn't claim to be high-risk. I don't think it's unreasonable to suggest that the nature of this fraud – that is long-running and having the outward appearance of being genuine makes it necessary to mimic the actions of a genuine company – including advising investors about risk.

The fact that K was incorporated as a limited company is not, in my view, a persuasive reason to think it was operating legitimately. Setting up a limited company is a straightforward and inexpensive process. It's also worth pointing out that K's stated 'nature of business' on Companies House isn't providing bridging loans.

I understand Lloyds' broader point – that we should simply wait until any investigation is concluded. On the face of it, that might not sound unreasonable. But it's been a significant amount of time since concerns about K came to light and there appears to be no clear timeline by which the matter might be resolved.

While I recognise the bar for demonstrating fraud is a fairly high one, I do not think it is necessary or fair to wait for an indeterminate point in the future when some degree of certainty may or may not be established as to the legitimacy of K.

Instead, I think the statements by The Insolvency Service are persuasive evidence and I wouldn't expect these to be made flippantly or without solid evidential grounds. On balance, I find those statements sufficient to reach the finding that K was operating as a scam.

Lloyds has not challenged our investigator's view that, should it be decided that Mr M fell victim to a scam, he should be reimbursed under the CRM Code. I'm satisfied no exception to reimbursement applies. Lloyds cannot evidence any warning it might have provided and therefore cannot show that any warning was 'Effective' and ignored by Mr M.

The fact that there continues to be debate about the legitimacy of the scheme years after the payment strongly suggests Mr M held a reasonable belief that the scheme was legitimate at the point he made the payment. And there's no other evidence I've seen which indicates it wasn't reasonable for him to hold this belief.

That means I think that Mr M should be reimbursed under the provisions of the CRM Code. Lloyds should reimburse the full amount of the payment (£2,500) minus the returns. It says those returns totalled £138.71. I have only been provided with bank statements up to November 2021 and it says that a final payment of £9.71 was made to Mr M in December 2021. This hasn't been disputed but it should check the amount of the returns carefully when reimbursing Mr M.

Distress and inconvenience

Our Investigator recommended that Lloyds pay £75 in addition to the £75 it paid to reflect its poor handling of Mr M's claim. Lloyds asked our investigator for a further explanation of this award and subsequently didn't challenge their reasoning.

I've considered this point and I'm satisfied that an extra £75 is fair and reasonable in the circumstances. Mr M was originally directed to the FSCS by Lloyds, but the FSCS directed him back to Lloyds. When he called again to report the matter in November 2023, he was passed around between advisors and given information that was unhelpful or incorrect on more than one occasion (such as being told that no claim was possible because he raised the claim more than 13 months after the payments). I can see this caused Mr M unnecessary trouble and I think that £150 in total compensation fairly reflects this.

Interest

I've decided that interest should be payable from the date that Lloyds declined Mr M's claim under the CRM Code. The information which I've largely relied on to uphold this complaint was obtained by our service significantly prior to Mr M raising his claim and I don't think it's unreasonable to suggest that Lloyds could have obtained this information too.

My final decision

I uphold this complaint about Lloyds Bank PLC and instruct it to pay Mr M:

- The amount of the disputed payment - £2,500, minus the returns he received.
- 8% simple interest per year on that amount from the date it declined Mr M's complaint under the CRM Code to the date of settlement¹.
- £75 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 April 2025.

Rich Drury
Ombudsman

¹ If Lloyds considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.