

The complaint

Mr B and Ms W complain that Lloyds Bank PLC hasn't refunded money they lost when they sent funds to what they now consider to have been an investment scam.

What happened

On 13 March 2025, I issued my provisional decision on this complaint. I wanted to give both parties the opportunity to provide any further evidence or arguments before I issued a final decision. That provisional decision forms part of this final decision and is copied below:

In 2022, Mr B and Ms W explain that they'd heard about an investment opportunity through a close friend. Mr B and Ms W explain they had no real prior investment experience but the returns the friend had been receiving appeared promising.

Mr B and Ms W learned that around seven of their friends had been investing in the same scheme. The underlying investment was described as predominantly based on making money through trading on international currency fluctuations (a trade often referred to as Forex).

Various of their friends confirmed being able to withdraw regular returns from the investment, some had been invested in the scheme for well over a year. Some had even seen demonstrations of the trading taking place in real time on a trading platform. The investments were apparently held and traded by a limited company that I will refer to as "Company T". Mr B and Ms W say they were assured about the investment through word of mouth, and the number of people they knew who'd confirmed having success with it.

The returns being offered were around 2% to 3% per week, and their money could be withdrawn after 12 months. That rate of return wasn't guaranteed, but the capital invested was.

It was stated that while Company T was not at that point regulated by the FCA, it was supposedly in the process of obtaining regulated status. Mr B and Ms W say they were able to verify that Company T was registered on Companies House.

One of their friends arranged an introduction to a member of staff at Company T. However, despite being keen to go ahead, Mr B and Ms W were told that Company T was not accepting new investors at that point. A few weeks later though they were told they could now proceed to invest.

The staff member explained the process to make an investment. Mr B and Ms W were sent a form to complete, which they duly did and returned. They received an investment contract and were required to provide proof of identity. Having gone through this process, they received details of the account to pay to make their investment.

On 17 May 2022, Mr B and Ms W sent a Faster Payments transfer of £10,020 from their joint Lloyds account. Rather than paying Company T directly, they were told to send their payment to an account in the name of another limited company (I'll refer to this as "Company

L"). Mr B and Ms W explain that they had been told to pay Company L for their investment to reach Company T, and that this was done for transactional reasons. They were aware that a friend had previously made an investment in Company T via Company L, and that this friend's payment had arrived without issue at Company T. Mr B and Ms W say they therefore had no reason to doubt this arrangement at the time.

When making their transfer using their online banking, Mr B and Ms W had been required to provide the purpose of the payment. They'd answered "Invoice or Bill" rather than choosing the 'Investment' option. This was because the email they'd had from Company T with the payment details had instructed them that it was imperative to state the payment reason as 'Invoice or Bill'. The email said that if Mr B and Ms W were to give the payment reason as being 'Investment', the investment company's accounts would be frozen immediately by their banks. Mr B and Ms W were led to believe this was due to Company T's FCA registration not yet having been finalised.

Initially, after making the payment, all seemed well. A couple of days after the payment Mr B and Ms W received an email from Company T verifying that their funds had been safely received. They could expect their first profit statement shortly.

But only a few weeks later they began to hear rumours there might be problems. Then Mr B and Ms W began to encounter difficulties in contacting Company T.

Ultimately, they've been able to recover nothing following their payment, and received no returns from the supposed investment. Mr B and Ms W reported the matter as a scam to Lloyds.

Lloyds is a signatory of the Lending Standards Board's Contingent Reimbursement Model (the CRM Code). The CRM Code requires firms to reimburse customers who have been the victims of Authorised Push Payment Scams (APP scams) in all but a limited number of circumstances.

Lloyds declined to reimburse Mr B and Ms W. It acknowledged they'd been the victims of an APP Scam. But it said it could rely on an exception to reimbursement in the CRM Code. It said Mr B and Ms W had made their payment without having held a reasonable basis for believing what they did at the time. They should have been concerned about being told by Company T to deceive their bank about the purpose of their payment. They'd invested in a scheme that wasn't regulated by the FCA and one where they had no access themselves to the trading platform or control over the trading that took place.

Lloyds said Mr B and Ms W had taken a lot of what they'd been told on trust and not carried out many checks. It noted that while Mr B and Ms W said they'd checked the Companies House records for Company T prior to making their payment, they hadn't checked the entry for Company L. Had they done so, Lloyds said they'd have seen it was a logistics company with no connection to Company T.

In short, Lloyds said that under the terms of the CRM Code it was entitled to decline to reimburse Mr B and Ms W. However, Lloyds accepted it could have handled their claim better. It offered to pay them £200 for the additional distress and inconvenience it caused.

Mr B and Ms W didn't accept Lloyds' response and referred their complaint to this service.

Our Investigator considered Mr B and Ms W's complaint. He initially recommended that they should be fully reimbursed by Lloyds. However, in a later review of the complaint, he said that Lloyds should reimburse 50% of the amount lost. It was fair for Mr B and Ms W to equally share the loss with Lloyds under the terms of the CRM Code.

Mr B and Ms W didn't accept the Investigator's revised outcome.

Lloyds also disagreed. It remained of the view that it should not reimburse Mr B and Ms W at all. It said it now didn't agree that this had been a scam rather than simply a high-risk investment that had failed. It said that could not be determined until the Police had concluded their investigations. Lloyds said this and other cases should pause until then, to ensure an intention to defraud could be established.

In light of this disagreement, I have been asked to reach a final decision on the matter.

What I've provisionally 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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

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 and the terms and conditions of the customer's account.

As noted above, where a payment was made as the result of an APP Scam, then the voluntary CRM Code can require the reimbursement of customers. But Lloyds says that the CRM Code should not currently be applied to Mr B and Ms W's payments pending the outcome of a police investigation into the trader. Even were the CRM Code to be found to apply, Mr B and Ms W would not be due full reimbursement because they made the payments without holding a reasonable basis for believing what they did at the time.

I'll consider the issues raised in sequence.

Can this case be fairly determined now?

Lloyds gave its initial decision to Mr B and Ms W's scam claim under the CRM Code in October 2022. At that point it accepted this had been an APP Scam and that the code applied.

It now says this was an error and that it is premature to reach a conclusion about whether the Mr B and Ms W's payment was the result of an APP Scam covered by the CRM Code. I've carefully considered this (and associated) arguments raised by Lloyds. I understand Lloyds considers I should wait on the conclusion of an ongoing police investigation into Company T and Company L. In part this is because it believes some or all of the money Mr B and Ms W paid might be recoverable through that route.

As a starting point, the CRM Code requires firms to make a decision about reimbursement without undue delay.¹

¹ "Firms should make the decision as to whether or not to reimburse a Customer without undue delay, and in any event no later than 15 Business days after the day on which the Customer reported the APP scam." [CRM Code - R3(1)]

The CRM Code does contain provision for a firm to delay giving its answer to a scam claim in some instances.² But that provision relates to delaying giving an answer and has no practical application where an answer under the CRM Code has already been given (as has happened here).

Furthermore, the CRM Code doesn't make criminal prosecution of the alleged scammer(s) a necessary requirement in determining if something is an APP scam. A balance of probabilities finding is sufficient. So, for example, the code doesn't stipulate waiting for criminal prosecution to establish that what occurred was an APP Scam covered by the code. Lloyds has also explained it considers the losses that might be due to Mr B and Ms W (and other investors) are not yet clear. In part that relates to the possibility that funds paid to Company L may ultimately be recovered following a police investigation.

The CRM Code has a stated objective of helping to protect a greater proportion of customers from the impact of APP scams, through both prevention and reimbursement. I am conscious that in a case of alleged fraud on this scale, a police investigation and charging decision can easily take several years. I consider that delaying reimbursement pending the potential recovery of funds elsewhere would fail to meet the code's objective of protecting customers from the impact of scams. Lloyds has the option of making it a condition of the settlement that any recovered funds can be assigned to it, avoiding the potential for double-recovery.

All considered, I'm satisfied there is no reason contained within the provisions of CRM Code that would mean I should not proceed to decide this complaint now.

Was this an APP Scam covered by the CRM Code?

In Mr B and Ms W's case, I'm being asked to decide if Lloyds, under the terms of the voluntary CRM Code, is liable to refund them because they were the victims of an APP Scam. I am doing so applying what I consider to be the balance of probabilities based on the available evidence.

I find the evidence is persuasive that Mr B and Ms W's funds were lost to an APP Scam covered by the CRM Code. Furthermore, I'm persuaded that the amount Mr B and Ms W have lost to this APP Scam can be determined, again by the application of the balance of probabilities. I will explain why I consider this to be the case.

Part of the information I have reviewed in making this finding has been provided by the bank that Mr B and Ms W paid the funds to. This information was shared in confidence³ and I will not detail it here. In summary though, as it relates to this complaint, no legitimate trading activity took place using Mr B and Ms W's funds. The evidence from that bank (and from the bank where Company T's account was held) is consistent with the operation of a so-called Ponzi scheme – whereby early investors receive returns which are paid from later investments.

Under the CRM Code, the definition of an APP Scam includes payments where "The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent."

² "If a case is subject to investigation by a statutory body and the outcome might reasonably inform the Firm's decision, the Firm may wait for the outcome of the investigation before making a decision." [CRM Code - R3(1)(c)]

³ The relevant rules can be found in the Dispute Resolution chapter (3) of the Regulator's Handbook of Rules and Guidance (DISP). At DISP 3.5.9R, the rules state that "the Ombudsman may: [...] (2) accept information in confidence (so that only an edited version, summary or description is disclosed to the other party) where he considers it appropriate".

On a balance of probabilities, I find that Mr B and Ms W sent their funds to the trader via Company L's account believing this was a legitimate investment, but that the trader's purpose in obtaining those funds was not to invest those funds but was instead fraudulent. Lloyds has not provided any persuasive evidence that would contradict this finding.

I'm satisfied that this was more likely than not an APP Scam and that the CRM Code should apply. While I appreciate a police investigation may reveal more detail, I'm of the opinion that this was an APP Scam, and that Mr B and Ms W suffered a quantifiable financial loss through the payment they sent (that loss being the value of the payment, given that they received nothing back).

Does Lloyds need to reimburse Mr B and Ms W under the terms of the CRM Code?

Lloyds initially argued that if the CRM Code does apply to Mr B and Ms W's case, it should not be liable to reimburse them, because one of the possible exceptions to reimbursement applies.

The relevant reimbursement exception states that a firm may choose not to reimburse a customer if it can establish:

- in all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the Customer made the payment without a reasonable basis for believing that: (i) the payee was the person the Customer was expecting to pay; (ii) the payment was for genuine goods or services; and/or (iii) the person or business with whom they transacted was legitimate. [R2(1)(c)]*

I've considered if Lloyds has established this and can rely on this exception. This is a finely balanced matter for me to determine. I am, for instance, aware that the Investigator at various points expressed conflicting opinions on this point. But I have carefully considered the available evidence afresh to reach my findings.

Firstly, while there were a number of features of this investment that might have prompted concern, I find there were factors that acted to reassure Mr B and Ms W in each instance. Mr B and Ms W explain how they'd first been made aware of Company T through a close friend. They had a large cohort of other acquaintances who'd similarly invested. All appeared to be having success with the investment. Some had withdrawn funds, some had seen the trading activity first hand. Some had been invested for over a year.

I'm persuaded by Mr B and Ms W's testimony here. I think the power of a personal recommendation can be compelling. This isn't a situation where they were simply relying on the word of a stranger – they were being recommended this by a close friend. Their friend's experience reasonably had a greater impact on Mr B and Ms W. That was reinforced by the related experience of multiple other friends. I find all of that would have been powerfully persuasive when it came to the decision Mr B and Ms W took to invest.

The rate of return and capital guarantee were exceptional features, and arguably too good to be true. But I cannot look past the fact that Mr B and Ms W had experience of seeing the results of the investment at close hand through their friend. I'm persuaded by what they say about this. On balance I don't think it was unreasonable for them to allow that experience and the recommendations of friends to outweigh any concerns they might have had about the returns being offered. The evidence before them appeared to demonstrate the investment was plausible.

There were other factors here that could have posed a concern. The payment had to be made to a payee other than Company T. That payee bore no obvious connection to Company T. And when Mr B and Ms W received the payment request email, it stated that they needed to state the purpose of the payment was something other than investment to avoid the recipient's account being frozen by their bank.

Firstly, I don't find that the request to use a specific payment purpose (that of invoice or bill rather than investment) equates to a requirement for Mr B and Ms W to be deliberately dishonest with their bank. They acknowledge that if Company T had told them to deceive Lloyds they'd have seen that as a significant red flag. But the alternate payment reason they were being asked to give didn't seem unreasonable – they were indeed making the payment in response to a payment request they'd received from a limited company: essentially, for a consumer, not something markedly different to an invoice.

And in relation to the different payee name, Mr B and Ms W received the payment details from what they thought was a trusted source (having been put in touch with that contact at Company T directly by their close friend). They knew of another investor who'd made payment to that payee without issues. I think in the circumstances they didn't act unreasonably in having trust on this point. Of course, as things worked out the different payee appears to have made no material difference: for what it is worth, Company T acknowledged receipt of Mr B and Ms W's funds.

In terms of the specific exception to reimbursement, I think that for the payment Mr B and Ms W made, at the point they made it, Mr B and Ms W did not lack a reasonable basis for believing they were paying for a legitimate investment opportunity via the account of a partner company of Company T. I'm not persuaded that Lloyds has been able to establish otherwise.

And for the avoidance of doubt, I do not consider that Lloyds can correctly apply any of the other possible reimbursement exceptions under the CRM Code.

Recovery of funds and the possibility of double-recovery

I acknowledge Lloyds's contention that should any recovery of Mr B and Ms W's funds become possible (through either a later criminal conviction of the trader or any other routes) then it would not be fair or equitable to put them in a position of double recovery. In saying that, I don't consider this possibility should prevent Lloyds from reimbursing them under the CRM Code now (nor would it have at the time Mr B and Ms W first reported the matter to Lloyds).

However, I consider it is fair and reasonable that Lloyds can choose, if it wishes, to obtain an undertaking from Mr B and Ms W to entitle it to any money recoverable elsewhere. In other words, Lloyds may require Mr B and Ms W to enter into an undertaking to assign to the bank any rights to any monies they might elsewhere be entitled to recover in respect of this loss.

If Lloyds asks Mr B and Ms W to provide such an undertaking, payment of the reimbursement awarded in this decision may be dependent upon provision of that undertaking. Lloyds may treat Mr B and Ms W's formal acceptance of the terms of my final decision as being sufficient for this purpose. Alternately, Lloyds would need to meet any costs in drawing up an undertaking of this type.

Interest award

I cannot know for certain how Mr B and Ms W would have used this money had Lloyds refunded them when it first considered their claim under the CRM Code. But if Lloyds had

refunded the money when it ought reasonably to have done then Mr B and Ms W would not have been deprived of it for the time they have had. So, Lloyds should also pay interest on the loss at a rate of 8% simple per year. This interest should be calculated from the date it first declined Mr B and Ms W's claim under the CRM Code until the date of settlement.

In summary

I therefore find that this case is one on which I can reach a fair and reasonable outcome without further delay. I find that Mr B and Ms W made their payment to an APP Scam and one covered by the CRM Code. I find that Lloyds has been unable to establish that it can apply any of the reimbursement exceptions under the CRM Code. It follows that Lloyds should have fairly and reasonably reimbursed Mr B and Ms W in full when they made their scam claim.

Putting things right

Given the reasons I've explained above, I'm minded to conclude that Mr B and Ms W ought reasonably to have been fully refunded under the CRM Code.

To put matters right I intend to require Lloyds Bank PLC to pay Mr B and Ms W:

- The full amount Mr B and Ms W lost to this scam (deducting any amounts already returned or refunded to them). The bank should do so within 28 days of receiving notification of Mr B and Ms W's acceptance of my final decision; plus,*
- interest at the simple rate of 8% per year on the above amount (less any tax properly deductible) to be calculated from the date Lloyds Bank PLC first declined Mr B and Ms W's claim under the CRM Code until the date of settlement.*

Pay (if not already paid) Mr B and Ms W the £200 compensation that was offered to them in respect of the additional distress and inconvenience the bank accepts causing them through its handling of their complaint.

Mr B and Ms W agreed with my provisional decision.

Lloyds has not responded by the deadline I had set. To avoid further delay, I have proceeded to reach my final decision on the matter.

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.

As no new information or further arguments were provided in response to my provisional decision, I see no reason to depart from the outcome I expressed in that decision and for the same reasons.

Putting things right

For the reasons set out above, Mr B and Ms W ought reasonably to have been fully refunded under the CRM Code.

To put matters right I require Lloyds Bank PLC to pay Mr B and Ms W:

- The full amount Mr B and Ms W lost to this scam (deducting any amounts already returned or refunded to them). The bank should do so within 28 days of receiving notification of Mr B and Ms W's acceptance of my final decision; plus,
- interest at the simple rate of 8% per year on the above amount (less any tax properly deductible) to be calculated from the date Lloyds Bank PLC first declined Mr B and Ms W's claim under the CRM Code until the date of settlement.

Pay (if not already paid) Mr B and Ms W the £200 compensation that was offered to them in respect of the additional distress and inconvenience the bank accepts causing them through its handling of their complaint.

My final decision

For the reasons given above I uphold Mr B and Ms W's complaint about Lloyds Bank PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Ms W to accept or reject my decision before 25 April 2025.

Stephen Dickie
Ombudsman