

## The complaint

Mr B complains that the Royal Bank of Scotland Plc (RBS) won't refund money he lost when he was a victim of a crypto investment scam.

Mr B is being supported by a representative, but for ease, I'll refer to Mr B throughout this decision.

## What happened

The background to this complaint is well known to both parties and so I'll only refer to some key events here.

In 2017 Mr B says that he saw information online about trading in crypto. After submitting his details, he was contacted by a broker (the scammer) from a trading company (which I'll refer to here as 'R'). 'R' later became a different trading company (which I'll refer to here as 'P'). Mr B explains that, before going ahead, he carried out his own research and found no negative reviews and that he was impressed with 'R's website and documentation provided.

Mr B says the scammer guided him on how to open an account with a legitimate crypto exchange (which I'll refer to here as 'C') and that he was given access to a trading portal where he could see returns on his investment. Mr B says the scammer persuaded him to invest small amounts at first and was told to expect returns of 100% plus.

Communication continued between Mr B and the scammer who he says persuaded him to invest more. Mr B says he was happy to do this as he could see increasing profits.

Mr B made the following card and international payments as part of the scam, via 'C'.

Date	Payment type	Amount
16 July 2018	Card payment	£6,000
23 July 2018	Card payment	£2,000
9 August 2018	International transfer	£10,030
10 August 2018	Card payment	£6,000
10 September 2018	Card payment	£5,223.99
13 November 2018	Card payment	£2,587.83
14 November 2018	Card payment	£2,549.07
15 November 2018	Card payment	£2,256.05
26 November 2018	Card payment	£1,830.92
15 April 2019	Card payment	£5,077.56
29 April 2019	Card payment	£5,132.97
1 May 2019	Card payment	£4,215.32
29 May 2019	Card payment	£2,882.26
13 June 2019	Card payment	£1,383.27
17 June 2019	Card payment	£1,466.41
17 June 2019	Card payment	£1,502.85

19 June 2019	Card payment	£773.80
19 June 2019	Card payment	£5,000
1 July 2019	Card payment	£2,010.55
1 July 2019	Card payment	£2,006.07
5 July 2019	Card payment	£5,000
8 July 2019	Card payment	£1,625
11 July 2019	Card payment	£1,375
15 July 2019	Card payment	£2,000
16 July 2018	Card payment	£2,000
17 July 2019	Card payment	£1,245
18 July 2019	Card payment	£3,755
15 August 2019	International transfer	£2,030
22 August 2019	International transfer	£5,030
		<b>£93,988.92</b>

I should point out here that Mr B made more payments prior to those listed above as part of the scam, both to 'C' and direct to 'R' as far back as October 2017. Those payments don't form part of Mr B's complaint given they were made more than six years before he complained to RBS.

When Mr B wanted to stop trading and was unable to withdraw his funds without paying more funds, he realised he'd been the victim of a scam.

Mr B complained to RBS on 29 May 2024. In short, RBS responded to say that as Mr B had made payments to an account in his own name ('C') it wasn't the point of loss.

Mr B then referred his complaint to the Financial Ombudsman. He said RBS should've intervened in the first payment (£6,000) – and that if it had – his loss would've been prevented. Mr B wanted RBS to refund the lost funds, together with 8% interest.

One of our Investigators considered the complaint but didn't uphold it. In summary, she said RBS should've asked more probing questions of Mr B when it contacted him about the £10,030 payment processed on 9 August 2018. But she didn't think this would've uncovered that Mr B was falling victim to a scam.

Our Investigator also thought there was nothing RBS could do to recover the lost funds. And she didn't think there was any justification for RBS to provide Mr B with compensation.

Mr B disagreed and asked for his complaint to be reviewed by an Ombudsman.

He agreed with our Investigator that RBS should've asked him more about the payments, particularly as its fraud detection systems had flagged the £10,030 payment as suspicious. But Mr B argued that a proportionate intervention by RBS would've prevented his loss. He said there's no evidence to suggest he'd have been dishonest if questioned by RBS, and at the time these payments were made, there were warnings from Action Fraud about the rise in crypto investment scams – with the documented hallmarks identical to the circumstances of the scam he'd fallen victim to. Because of that, Mr B said he finds *"it difficult to see how [RBS] could not have uncovered the scam as [his] circumstances matches what Action Fraud has warned about"*.

### **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.

But first, I would like to say that if there is a submission I've not addressed; it isn't because I've ignored the point. It's simply because my findings focus on what I consider to be the central issues in this complaint – that being whether RBS was responsible for Mr B's loss.

As a starting point, Mr B doesn't dispute that the payments were made in line with his instructions to RBS. In broad terms, the starting position in law is that a bank, such as RBS, is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer's account.

However, I consider that as a matter of good industry practice that RBS ought to have taken steps to intervene prior to processing a payment instruction where it had grounds to suspect a payment might be connected to fraud or a scam. Further to that, where there is an interaction between a customer and a bank before a high value payment is processed, as there was here in relation to the £10,030 payment, I'd expect the bank to take proportionate steps to understand the circumstances of that payment.

The question then arises whether RBS ought reasonably to have held such suspicions or concerns in relation to Mr B's payments — and if so, what might've been expected from a proportionate intervention.

So, taking all of this into account, I need to decide if RBS acted fairly and reasonably in its dealings with Mr B when he made the payments. Specifically, whether it should've done more than it did before processing the payments – and if it had, would that have made a difference. I also need to decide if RBS could've reasonably recovered the lost funds.

#### *Should RBS have intervened in the payments?*

Mr B thinks RBS should've identified the £6,000 payment made on 16 July 2018 as suspicious. Due to the passing of time, RBS has no record to confirm whether it flagged the payment or not – so I've looked at the circumstances surrounding that payment to see if I think it should've been of concern to RBS.

Looking at Mr B's bank statements in the 12 months prior to the £6,000 payment, I can see that 'C' wasn't a new payee – with many transactions to 'C' and to 'R'. And that Mr B had made several high value payments (ranging between £10,000 and £19,000). So, taking this into account, I don't think RBS would've had any obvious concern about the £6,000 payment made to 'C' on 16 July 2018 given it was in line with Mr B's previous account activity.

The evidence I've seen indicates that RBS spoke to Mr B about the £10,030 international payment made on 9 August 2018. It appears that this interaction was to obtain confirmation that Mr B was making the payment – and that there was no discussion about the payment purpose or the surrounding circumstances of it. As I've said above, where there is an interaction between a customer and a bank before a high value payment is processed, we'd expect it to find out more about the purpose of that payment particularly, as in this case, RBS had flagged the payment as suspicious. And so, I think RBS missed an opportunity here to find out more about the £10,030 payment before processing it.

#### *Would an intervention by RBS have prevented Mr B's loss?*

For me to find it fair and reasonable that RBS should refund the £10,030 payment and those that followed it, requires more than a finding that it should've done more to intervene when the £10,030 payment was made. I would need to find not only that RBS should've intervened where it ought reasonably to have done so — but crucially, I'd need to find that but for this failure the subsequent loss would've been avoided.

That latter element concerns causation. A proportionate intervention will not always result in the prevention of a payment. And if I find it more likely than not that such a proportionate intervention by RBS wouldn't have revealed the payment was part of a fraud or scam, then I couldn't fairly hold it liable for not having prevented it from being made.

I've thought very carefully about this point and taken account of all the wider surrounding circumstances to decide on balance, what is most likely to have happened if RBS had asked Mr B more about the £10,030 payment. And on doing so, I'm not persuaded that this would've made a difference and prevented Mr B's loss. I'll explain why.

Firstly, whilst there were warnings from both Action Fraud and the Financial Conduct Authority (FCA) in mid-2018 about crypto investment scams, this was a relatively new concept, and it wasn't until January 2019 that these scams showed signs of becoming more prevalent. And so, at the time the £10,030 payment was made (July 2018), I wouldn't reasonably have expected RBS, in the circumstances of this complaint, to have fully digested the regulatory warnings or to have had much exposure to these types of scams; allowing them to put effective mechanisms in place to detect and prevent them.

I can't say for sure what RBS would've asked Mr B, but I've no reason to believe that he wouldn't have been honest in his responses. I think it's likely that he'd have said he was investing in crypto and had been sending funds to an account in his name with 'C' (a legitimate crypto exchange) for over six months. He could've also explained that he'd checked online reviews and had access to his trading platform where he could see his trades (and profits) and was being guided by a broker. I appreciate that these are all now well-known hallmarks of crypto investment scams. But in July 2018, this information would've, in my opinion, been reassuring to RBS that Mr B was likely involved in a legitimate investment.

I've also seen communication between Mr B and the scammer dating back to November 2017. Mr B is fully engaged in the investment, chasing progress and demonstrating a good understanding of the trading process. So, if RBS had asked him to explain the nature of the investment, I think it's more likely than not that Mr B would've been able to provide a coherent and persuasive response. And if RBS had raised any concerns with Mr B about the legitimacy of the investment, I think it's reasonable to assume those concerns would've been allayed by the scammer.

Further to that, whilst there was an FCA warning about 'R' in October 2017 (being a clone company), at the time these payments were made Mr B was dealing with 'P', and I can't see there were any regulatory warnings about 'P' until 2022. So, if RBS had suggested to Mr B that he check the FCA register, he would've unlikely found anything of concern about 'P'.

I should also make the point that RBS's primary obligation was to carry out Mr B's payment instruction without delay. It wasn't to concern itself with the wisdom or risks of his payment decision.

In particular, RBS didn't have any specific obligation to step in when it received a payment instruction to protect its customers from potentially risky investments. The investment wasn't something RBS was recommending or even endorsing.

Taking all this into account, I'm not persuaded that a proportionate intervention from RBS at the point of £10,030 payment would've likely prevented Mr B's loss from that point.

I've also thought about whether RBS should've intervened in any later payments made by Mr B, particularly given those payments continued into 2019 – when we think firms should've had a better understanding of how crypto investment scams worked.

The payments continued to be made to 'C' who was, by this time, a well-established payee, with the payment values being largely consistent with those made previously. And so, the payments made after the £10,030 payment on 18 July 2018 would've, in my opinion, have looked to RBS to have been like normal account activity.

Also, of significance here is that the payments don't sequentially increase in value and were spaced out over a 12-month period. This isn't conducive with the common hallmarks of a crypto investment scam.

So, in summary, I don't think there's any reasonable basis to conclude that RBS should've intervened in any later payments.

*Did RBS do enough to try and recover the lost funds?*

I've considered whether RBS could reasonably have done anything to recover Mr B's losses, but I don't think it could.

Mr B's card payments were made to 'C', a legitimate crypto exchange, rather than to the scammer directly. As such, I'm satisfied any attempt to dispute the transactions through the card scheme would've been successfully defended by 'C', on the basis that it provided the service Mr B paid for – the exchange of money into crypto. So, I don't think there was any prospect of Mr B recovering his money this way.

In terms of the international payments, almost six years had passed by the time Mr B alerted RBS to the scam, and so I think it's unlikely any funds would've remained. Recovery attempts on payments made internationally are also less likely to succeed.

I have a great deal of sympathy for Mr B and the loss he's suffered, as I appreciate it's a significant sum of money. But it would only be fair for me to direct RBS to refund his loss if I thought it was responsible – and I'm not persuaded that this was the case in the circumstances of this complaint. For the above reasons, I think RBS has acted fairly and so I'm not going to tell it to do anything further.

**My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision **before 22 July 2025**.

Anna Jackson  
**Ombudsman**