

The complaint

Ms S complains that TSB Bank plc (TSB) didn't do enough to protect her when she fell victim to an investment scam. Ms S is seeking a refund of the money she lost and is represented in this complaint. As it's Ms S's complaint I'll refer to her.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a very brief overview of some of the key events here.

In 2019, Ms S was attracted to an investment opportunity offering above average returns (18%), aimed at sophisticated investors and high-net worth individuals.

Company W specialised in investing in long term residential real estate securities and high-risk asset backed securities in the UK and they formed a group with the following companies:

- Company A, who managed:
 - The administrative function, collecting and distributing investor funds.
- Company B, who managed:
 - The commercial activities of the property hedge fund
 - The funds received via the issue of company loan notes.

Ms S explains that she was neither a sophisticated investor nor a high-net worth individual and she was introduced to the above group, that she considered to be professional, by two people she trusted. One was an individual she knew, who had a very strong resume and previously completed work for her. The other was an advisor the known individual recommended.

Ms S planned to invest £25,000 to gain a return of £375 per month with Company W, having *'thoroughly vetted the investment opportunity'* and completed *'due diligence, by way of raising a number of questions and completing online research'*.

On 20 February 2020, Ms S invested £25,000 in a twelve month loan note, which she paid for through a faster payment from her TSB bank account. And Ms S received her first return of £375 in March 2020.

Soon after, due to Covid-19, she received a communication saying Company W had placed a hold on business activity. She subsequently received the following returns of £500 in September 2020 and £375 between October 2020 and February 2021.

In 2021, Company W informed Ms S that they had issues, and the terms of the investment were changing with an extension to three years with return on investment reduced from 15% to 10%.

As the loan note was for a twelve month term, Ms S sought repayment of the principal sum. However, this was retained by Company W and, following a change to the group, being utilised by a different company.

Ms S didn't get her funds back and, in July 2022, she received a 'Report for investors' which informed her that returns were placed on hold but there was still capital and reserves and the prospect of high returns in the future. However, full details of the balance sheet don't appear to have been provided to investors. In February 2024, Company W was dissolved via compulsory strike-off.

Ms S believes the investment scheme to have been a scam, and she holds TSB responsible for her loss of £21,416.68.

In 2023, she submitted a complaint to TSB in which she said:

- They should've realised her February 2020 payment of £25,000 was a '*fraudulent transaction*', and was out of character for her, as she didn't make such large payments and it '*represented the largest payments made from the bank account in the past twelve months*'. Also, she had just deposited a large amount into her account and made two other large payments all '*out of the norm for the bank account*'.
- They failed to safeguard her account and take reasonable care and skill to:
 - '*Adequately review previous transactions in order to establish that they have been defrauded*'.
 - Block '*the payment until you had satisfied yourself as to the legitimacy of the payment*'.
 - Carry out checks, and issuing effective warnings.
 - Educate her against the risks of fraud and fraudsters' manipulative techniques.

TSB didn't uphold her complaint. They explained that:

- They consider that the payment was made to a legitimate company, which fell into insolvency, rather than a scam.
- Their security systems aren't guaranteed to flag all payments that are deemed suspicious or out of character.
- The £25,000 payment fell in line with her regular spending.

Ms S brought her complaint to our service. However, our investigator also didn't consider it to be scam and therefore didn't think TSB had acted in an unfair or unreasonable way.

As Ms S remains dissatisfied her complaint has been passed to me to look at.

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.

Having done so, I'm very sorry that Ms S has lost a significant amount of money here. However, I'm not upholding this complaint, and I'll explain why.

I've carefully considered all the points Ms S and TSB have made and I've focused on what I think are the important points to reach a final decision.

My key finding in this case is that there is insufficient evidence that Ms S has fallen victim to a scam and that the purpose of the payment, as Ms S understood it, didn't match Company W's purpose.

Although TSB isn't a signatory of the Lending Standards Board's Contingent Reimbursement Model (the CRM Code), they have a Fraud Refund Guarantee (FRG). But I'm satisfied that this doesn't apply as there needs to be evidence that Company W deliberately set out to defraud Ms S and had no intention of investing the money when she paid them.

Whilst I can fully understand Ms S's upset and suspicion that Company W and the group of companies set out to scam her, from my review of her submissions and the available information, there is currently a lack of evidence to show that, either now or back in 2020, they were operating a scam.

As Ms S's research would've shown, Company W was registered with Companies House back in 2020 and fraudulent businesses are less inclined to leave such a footprint. I accept this, payment of first year returns, and the following points, don't rule out a scam having taken place, but I considered it to be relevant information here. Also:

- Company W's accounts were *'made up to 31 October 2022.'*
- The Company W director Ms S liaised with didn't cease to be a director until April 2021.
- An introduction company still exists and appears to be trading.
- When Ms S liaised with the insolvency office, in mid-2022, they were unable to give her much of an update. Although they mentioned possible fraud outcomes under Section 447 of the Companies Act 1985, they also said:
 - An outcome could be *'there is nothing untoward with the company(ies) trading, no further action may be taken.'*
 - *'I'm sure you will have your own opinions regarding the company(ies) trading but before any action can be taken, there has to be sufficient evidence to warrant any of the above courses of action.'*
- There is currently no information on Action Fraud or charges against any of the companies or directors. And I can't see there were any visible warnings about any of the companies in 2020.

I considered the Payment Services Regulations 2017 (PSR). In accordance with general banking terms and conditions, banks should execute an authorised payment instruction without undue delay. The starting position is that liability for an authorised payment rests with the payer, even where they consider they have been duped into making that payment. There's no dispute that Ms S made the £25,000 payment here, so it is considered authorised.

In accordance with the law, regulations and good industry practice, a bank should be on the look-out for and protect its customers against the risk of fraud and scams so far as is reasonably possible. If it fails to act on information which ought reasonably to alert a prudent banker to potential fraud or financial crime, it might be liable for losses incurred by its customer as a result.

However, banks do have to strike a balance between the extent to which they intervene in payments to try and prevent fraud and/or financial harm, against the risk of unnecessarily inconveniencing or delaying legitimate transactions.

I consider TSB should at that time fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks such as anti-money laundering and preventing fraud and scams.
- Have systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is

particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.

- In some circumstances, irrespective of the payment channel used, have taken additional steps, or make additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

With the above in mind, I considered whether TSB ought to have intervened to carry out fraud checks and whether that would have prevented the loss

From analysing Ms S's statements, I can see that, after crediting her account with £99,310.56 on 18 February she soon made three payments for £25,000 and the first of these was for her investment with Company W. Also, she made another two payments for £15,000.

As Ms S hadn't made any payments of anywhere near these amounts in the previous six months, I can't see that the £25,000 payment fell in line with Ms S's regular spending.

That said, it isn't uncommon or unusual for a customer to credit a non-interest bearing bank account with a very large amount, further top up the account, and then immediately make large payments for the equivalent, including to a legitimate company with an established bank account with a regulated firm. So, TSB would reasonably have been expecting the funds to be moved elsewhere (to either be invested or to an account attracting higher interest) and would have modelled its detection system on that basis.

That is what Ms S did with the £25,000 payment and appears to have done with some or all the other large payments that left her TSB account between 21 February and 27 February 2020. Though £25,000 is a large amount, it wouldn't have drained the account once sent and only reduced the balance by a quarter – which lowered the overall risk associated with it. The payee was a company account also held with TSB, and it didn't have any concerns about that customer. So, I'm not persuaded that there was necessarily an intervention failure here.

So, based on the information available, even if TSB's system had triggered an intervention on the £25,000 payment and one of their agents spoke to Ms S to probe her payment and investment, I'm not persuaded they would've stopped her going ahead. I say this for the following reasons:

- An agent's role:
 - Would've been to give Ms S appropriate fraud and scam warnings and check there weren't any fraud or scam risk indicators.
 - Wouldn't have been to give Ms S investment advice or to inspect her documentation.
- The company she paid was a legitimate company with an established and valid bank account. I've not found any warnings about these companies from official sources, so there wouldn't have been any information to show they posed a risk.
- Ms S's research and due diligence was thorough and involved knowledgeable people she trusted. Ms S was fully aware that Company W wasn't authorised by the FCA and had considered this. Also, at that time, the FCA were consulting on this type of investment and hadn't issued any warnings. Consumers were able to invest in property hedge funds and I don't think not being FCA approved would've been a red flag for an agent to issue a direct warning.
- It's clear Ms S was looking for an investment with a high return, had consulted with trusted advisors and, regarding her risk appetite, Company W had been transparent

and made her aware it was a high-risk investment aimed at sophisticated investors or high-net worth individuals. Although Ms S said neither applied to her, she was willing to sign a declaration that she met this suitability criteria and giving up important rights including the ability to complain. Considering this together with the research she had undertaken and who had advised her, even if the agent questioned her about experience in high-risk investments, I'm not persuaded it would've made Ms S *'re-think'*.

- The 18% return was on the high side, but I don't think it would've stood out as remarkable (to the extent that it was 'too good to be true' and likely a scam).

So, even if I concluded TSB should have intervened, I'm not persuaded it would have prevented the payment being made. And I don't think it unfair or unreasonable for TSB to consider that Ms S's loss was due to a failed investment venture.

I accept that Company W failed to deliver what was expected from the investment. But I haven't seen any clear or persuasive evidence this was always what it intended or that, at the time of the payment, the group weren't legitimate companies and planned to defraud Ms S and use her funds in a different way to what was agreed.

I appreciate Ms S is convinced a scam has occurred here, but due to a lack of evidence to show that Company W set out to scam Ms S, rather than it failing and going into administration, there isn't a basis to uphold this complaint.

Whilst I'm very sorry Ms S has lost a large amount of money here, sometimes investments, particularly the type that promise high returns, can lose money or not provide the returns that were promised, and this doesn't necessarily mean a scam took place.

I'm sorry to disappoint Ms S but having considered the above and all the information on file, I'm not upholding this complaint against TSB.

My final decision

My final decision is that I'm not upholding this complaint against TSB Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 15 July 2025.

Paul Douglas
Ombudsman