DRN-5632412

The complaint

Mr J complains that Bank of Scotland trading as Halifax didn't do enough to protect him from the financial harm caused by an investment scam.

What happened

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

Mr J was researching investments online when he came across a company I'll refer to as "C", which was located overseas. He expressed an interest online and was contacted by telephone by someone who claimed to work for C who said he could make a good profit from investing in forex.

Mr J understood that C was owned and operated by Company "M", which was located in different country, but neither company was regulated. He didn't do any checks or due diligence before proceeding with the payments and during the investment period, he took out a loans to fund the investment. Between 16 May 2018 and 23 May 2018, he made four debit card payments to C totalling £15,306.60.

Mr J complained to Halifax when he realised he'd been scammed. His representative said Mr J's account history ought to have alerted it to the unusual nature of the payments, which represented a sudden increase in spending following recent credits into the account with clear reference to loan companies. They said he was making large payments to international payees and Halifax should have asked him what the payments were for, how he heard about the opportunity, what rate of return he'd been promised, and what he knew about the company he was paying. They said it should refund the money he'd lost as a result of its negligence in releasing the funds as well as £1,000 compensation for poor service.

But Halifax refused to refund the money Mr J had lost. It said he didn't do any due diligence before proceeding with the payments and there was no need to intervene. Mr J wasn't satisfied and so he complained to this service with the assistance of his representative.

Responding to the complaint, Halifax said C was a genuine company and Mr J received £743.49 into the account on 24 May 2024. It also said that he was still using the account to invest in cryptocurrency and when it blocked a payment on 27 November 2023, he said he'd done research and was happy to proceed, suggesting how he might have reacted had it intervened when he made the disputed payments.

Our investigator didn't think the complaint should be upheld. She was satisfied that C was operating a scam and that Halifax should have intervened when Mr J made the payments, but she didn't think an intervention would have made any difference. She noted he was dishonest about the purpose of one of the loans, stating it was for 'home improvements/ repairs'. And even if he'd done some checks, there were no warnings about C on the FCA website at the time he made the payments, so he wouldn't have realised it was a scam.

Mr J asked for his complaint to be reviewed by an Ombudsman. His representative argued that he thought the investment was legitimate, so the lack of warnings, alerts, or communication from Halifax left him vulnerable. They also argued that even though Mr J didn't act prudently when he took out the loan, Halifax could have raised doubts in his mind and caused him to pause and reconsider, especially if the risks associated with unregulated forex and binary options traders were drawn to his attention.

My provisional findings

I issued a provisional decision on 5 June 2025 in which I stated as follows:

Our investigator commented on chargeback in her view, but this service previously concluded a complaint about chargeback was out of jurisdiction, so I haven't commented on it.

I'm satisfied Mr J 'authorised' the payments for the purposes of the of the Payment Services Regulations 2017 ('the Regulations'), in force at the time. So, although he didn't intend the money to go to scammers, under the Regulations, and under the terms and conditions of his bank account, Mr J is presumed liable for the loss in the first instance.

There's no dispute that Mr J was scammed, but although he didn't intend his money to go to scammers, he did authorise the disputed payments. Halifax is expected to process payments and withdrawals that a customer authorises it to make, but where the customer has been the victim of a scam, it may sometimes be fair and reasonable for the bank to reimburse them even though they authorised the payment.

Prevention

I've thought about whether Halifax could have prevented the scam from occurring altogether.

It ought to fairly and reasonably be alert to fraud and scams and these payments were part of a wider scam, so I need to consider whether it ought to have intervened to warn Mr J when he tried to make the payments. If there are unusual or suspicious payments on an account, I'd expect Halifax to intervene with a view to protecting Mr J from financial harm due to fraud.

The payments didn't flag as suspicious on Halifax's systems, so I've considered the nature of the payments in the context of whether they were unusual or uncharacteristic of how Mr J normally ran his account. The first payment was only for £185.87 and so there would have been no reason to intervene. The second payment was for £4,972.82 and while I accept this was a significant amount, there wouldn't necessarily have been anything suspicious about the payee and in the absence of any other concerning factors, I don't think it was high enough to have triggered Halifax's systems in 2018.

The third payment happened five days later and was for a similar amount. Again, I don't think there would have been enough to trigger an intervention. But I think Halifax should have intervened the following day when Mr J sent £4846.66 to C because he was sending a similar amount to the same beneficiary on consecutive days, the cumulative total for the two days was nearly £10,000, and there wasn't a history of large payments on the account.

I haven't seen any evidence that Mr J was coached to lie to Halifax and while I accept he lied about the purpose of the loan, I don't consider this is evidence that he'd have lied in response to questions from Halifax about the payments. He thought the investment was genuine and wouldn't have had anything to hide if Halifax had contacted him, so I think it's likely that he'd have disclosed that he was investing in forex using a company based overseas that he'd found online.

Halifax could easily have established that C wasn't authorised by the FCA or the relevant overseas authority, and this would have been a strong indicator that it was operating a scam. It could then have warned Mr J about the risks associated with unauthorised investments and discussed with him the nature of the checks he'd undertaken.

I accept Mr J already knew C wasn't authorised, he didn't do any due diligence, and he went ahead with a payment to a cryptocurrency exchange following an intervention from Halifax in November 2023. But I have also taken into account that he wasn't an experienced investor, and as such wouldn't have necessarily known the consequences of dealing with an unregulated company. I would expect Halifax to have explained the fact C wasn't regulated strongly indicated it was operating illegally because legitimate firms tend to comply with regulatory requirements. And there was a high chance Mr J would lose his money.

The FCA warning about C wasn't published until 26 June 2018, which was after Mr J made the payments he's now disputing. So, on the face of it, I accept that no concerns were raised by the FCA at the time. But this doesn't change the fact that the circumstances under which Mr J found the investment were concerning, and there would have been negative reviews online about C. I haven't seen any evidence that he was being coached or that he had a relationship with C such that he'd have gone ahead with the payments after receiving advice that it was probably operating a scam. Consequently, because I think Halifax missed an opportunity to intervene and that this might have prevented Mr J's loss, I'm minded to direct that Halifax should refund the final payment, less the credit he received the following day.

Contributory negligence

There's a general principle that consumers must take responsibility for their decisions and conduct suitable due diligence. Mr J lied on a loan application to fund the investment and failed to conduct any due diligence before investing though a company that he knew wasn't regulated in the UK or overseas. Had he done so, he would have seen multiple negative reviews online about C which predated the payments. So, I think the settlement should be reduced by 50% for contributory negligence.

Recovery

I don't think there was any prospect of a successful recovery because Mr J sent the funds to an international account and the funds would have been removed by the time he reported the scam to Halifax.

Compensation

I haven't found any errors or delays to Halifax's investigation, so I don't think Mr J is entitled to any compensation.

Developments

Halifax has agreed to settle the complaint in accordance with the direction in my provisional decision.

Mr J thinks the settlement is unfair and biased in favour of Halifax and that it should have stopped the final payment when he contacted it to report the scam. He maintains it should pay compensation for the emotional impact of the scam and the delays Halifax caused when his representative asked for details about the receiving bank.

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.

I'm sorry that Mr J is disappointed with the settlement, but for the reasons I've already explained, I don't think Halifax needed to intervene until he made the final payment. And I remain satisfied that the settlement should be reduced by 50% for contributory negligence for the reasons stated above.

Mr J has also argued that he should be compensated for Halifax's failure to have stopped the final payment when he reported the scam to it, but we wouldn't expect Revolut to have stopped a pending transaction, and I can't comment on chargeback because this service previously concluded that a complaint about chargeback was out of jurisdiction. And the request for details about the receiving bank was also considered under a different complaint, so I won't comment on it here.

I understand that Mr J feels he is entitled to compensation, but Halifax didn't cause his loss, I haven't found any delays or errors to its investigation, and it isn't responsible for any loss that it couldn't reasonably have prevented. So, Mr J isn't entitled to any compensation.

My final decision

My final decision is that Bank of Scotland trading as Halifax should:

• refund the final payment, less the credit received into the account on 24 May 2025.

• the settlement should be reduced by 50% to reflect contributory negligence.

• pay 8% simple interest*, per year, from the respective dates of loss to the date of settlement.

*If Bank of Scotland trading as Halifax deducts tax in relation to the interest element of this award it should provide Mr J with the appropriate tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 July 2025.

Carolyn Bonnell
Ombudsman