

## **Complaint**

G, a limited company, complains that National Westminster Bank Public Limited Company (NatWest) didn't reimburse it after it lost money to an investment scam. The complaint is brought on G's behalf by Mr G, its only director.

## **Background**

In May 2020, Mr G fell victim to an investment scam. At the time, he was undertaking a property investment training course with a well-established provider. He had previously attended several of their sessions and developed a level of trust in the individuals associated with the organisation. During one of these courses, Mr G was introduced to an investment opportunity by someone affiliated with the training provider. He was encouraged to diversify his portfolio beyond rental properties and was recommended a specific firm, which I'll refer to in this decision as Company A.

Mr G was informed that Company A had developed a proprietary automated algorithm designed to exploit market volatility. It was said to generate substantial returns for investors. He was told that individuals connected to the training provider had themselves invested with Company A and had seen positive results. Relying on this endorsement, Mr G attended a webinar hosted by Company A. As I understand it, he didn't undertake any independent research and based his decision to invest solely on the recommendation of those affiliated with the training provider.

In November 2020, G invested a total of £50,000 with Company A. The investment was structured as a loan agreement, under which Company A would repay the principal plus interest after 12 months. Approximately one year later, G received a payment of £12,913 from Company A. However, when he attempted to obtain payments further down the line, Mr G discovered that the arrangement was not genuine and concluded that he had been the victim of a scam.

G subsequently raised a complaint with NatWest, the bank through which it had made the payments. NatWest declined to reimburse him, stating that Company A had been a legitimate business that later failed. It considered the matter to be a private civil dispute and advised G to seek recovery through the insolvency process.

Mr G wasn't happy with that response and so he referred his complaint to this service. An Investigator upheld the complaint. NatWest disagreed with the Investigator's findings, and the case was passed to me for a final decision.

## **Findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The starting point in law is that a bank is generally expected to process payments that a customer authorises, in accordance with the Payment Services Regulations 2017 and the

terms and conditions of the customer's account. It's common ground that these payments were authorised and so G is presumed liable at first instance.

However, that isn't necessarily the end of the matter. At the time of the events in question, NatWest was a signatory to the Lending Standards Board's Contingent Reimbursement Model Code (CRM Code). Under the CRM Code, firms are expected to reimburse customers who fall victim to authorised push payment (APP) scams, except in a limited range of circumstances.

*Is it appropriate to determine this complaint now?*

The CRM Code only applies if what happened here meets its definition of an authorised push payment (APP) scam. NatWest has argued that it remains an open question whether this was a scam. There is, as I understand it, an ongoing police investigation and the liquidator's enquiries might shed light too. NatWest says we should wait until that picture becomes clearer.

There may be circumstances and cases where it's appropriate to wait for the outcome of external investigations. But that isn't necessarily so in every case, as it may be possible to reach conclusions on the main issues on the basis of evidence already available. And it may be that the investigations or proceedings aren't looking at quite the same issues or doing so in the most helpful way. I'm conscious, for example, that any criminal proceedings that may ultimately take place might concern charges that don't have much bearing on the issues in this complaint. Additionally, even if such a prosecution were relevant, any outcome other than a conviction might be little help in resolving this complaint because the Crown would have to satisfy a higher standard of proof (beyond reasonable doubt) than I'm required to apply (the balance of probabilities).

As for any hypothetical investigation by the liquidator, that would normally be for the purpose of maximising recoveries for creditors. Sometimes they lead to civil proceedings against alleged wrongdoers, or against allegedly implicated third parties. But the claims may not be relevant to the issues on the complaint. And, even if they are potentially relevant, such claims are quite often compromised without a trial and on confidential terms, so the outcome is of little benefit to our service.

To determine this complaint, I must ask myself whether, on the balance of probabilities, the available evidence indicates that it's more likely than not that he was the victim of a scam rather than a failed investment. But I wouldn't proceed to that determination if I consider fairness to the parties demands that I delay doing so.

I'm aware that this claim was first raised with NatWest in May 2023 and I need to bear in mind that this service exists for the purpose of resolving complaints quickly and with minimum formality. With that in mind, I don't think delaying giving G an answer for an unspecified length of time would be appropriate unless truly justified. And, as a general rule, I'd not be inclined to think it fair to the parties to a complaint to put off my decision unless, bearing in mind the evidence already available to me, a postponement is likely to help significantly when it comes to deciding the issues.

I'm aware the above processes might result in some recoveries for investors in Company A. To avoid the risk of double recovery, I think NatWest would be entitled to take, if it wishes, an assignment of the rights to all future distributions to G under those processes in respect of this investment before paying anything I might award to them on this complaint. For the reasons I discuss further below, I don't think it's necessary to delay the determination of this complaint.

Has G been the victim of an APP scam, as defined in the CRM Code?

The CRM Code applies only to payments that meet its definition of an APP scam. For the purposes of this complaint, it defines an APP scam as one where a customer has:

*“transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.”*

The Code also explicitly doesn't cover certain circumstances, including:

*“private civil disputes, such as where a Customer has paid a legitimate supplier for goods, services, or digital content but has not received them, they are defective in some way, or the Customer is otherwise dissatisfied with the supplier.”*

In order to find that these payments are covered by the CRM Code, I have to be persuaded that:

- the purpose for which G made the payments was different from the purpose for which Company A procured them; and
- that difference arose because of dishonesty or deception on the part of Company A or those acting on its behalf.

The key issue is what the intentions of Company A were at the time. While I cannot know this with certainty, I must look at the available evidence and see whether it allows me to infer what those intentions likely were.

While there is an ongoing police investigation into Company A, which has not yet resulted in any criminal charges, I must make my decision based on the civil standard of proof i.e. whether it is more likely than not that Company A was operating fraudulently at the relevant time.

There is some evidence that Company A engaged in foreign exchange (forex) trading, with records indicating investment activity amounting to just under £5 million. However, this represents only a small fraction of the total funds it received from investors, which was approximately £28 million in total. Most of the funds received by Company A do not appear to have been used for investment purposes. Instead, they were withdrawn to accounts controlled by individuals connected to the company. This raises serious concerns about the legitimacy of the operation and the true purpose for which the funds were received.

There is no evidence to suggest that Company A had the capability to generate the exceptional returns it promised to investors, and its proprietary algorithm seems to have been a work of fiction. In practice, the limited trading activity that did take place resulted in a loss. This undermines the credibility of the claims made to Mr G and others about the company's investment strategy and performance. While one might expect a company to talk itself up and perhaps even make overstated claims to potential customers, in this case it clearly went beyond that.

It also appears that the payments made to some investors were not genuine returns on investment. Instead, it looks likely that they were made to encourage further investment, either from the same individuals or from new investors introduced by those who had already invested. This pattern is consistent with the characteristics of a fraudulent scheme, where early “returns” are used to build trust and attract additional funds.

Taking all of this into account, I am satisfied, on the balance of probabilities, that Company A was operating dishonestly and that G's payments were made in connection with an APP scam.

Returning to the question of whether in fairness I should delay reaching a decision pending developments from external investigations, I have explained why I should only postpone a decision if I take the view that fairness to the parties demands that I should do so. In view of the evidence already available to me, however, I don't consider it likely that postponing my decision would help significantly in deciding the issues.

#### *Should G be reimbursed under the Code?*

I have gone on to consider whether NatWest needs to pay a refund under the terms of the CRM Code. As mentioned earlier, the Code requires firms to reimburse customers who have been the victim of APP scams (such as the one I am satisfied G fell victim to) in all but a limited number of circumstances. It is for the firm to establish that one of the exceptions to reimbursement applies.

Under the CRM Code, a firm may decline to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made; or
- The customer made the payment without a reasonable basis for believing that ... the person or business with whom they were transacting was legitimate.

Due to the passage of time, NatWest can't confirm either way whether a warning was displayed, although it thinks it's likely that one was. Nonetheless, in the absence of supporting evidence, I'm not persuaded it can rely on that first exception. I'm also satisfied, on balance, that Mr G had a reasonable basis for believing that Company A was a legitimate business offering a genuine investment opportunity and so the second exception isn't applicable either.

Mr G was introduced to the opportunity through a training course provider with whom he had an established relationship. He had attended several of their property investment courses in the past and had come to trust and respect the trainers, whom he regarded as knowledgeable and credible. It was on the recommendation of these individuals that Mr G decided to invest. He'd been told that they had personally invested with Company A and were seeing positive returns. This endorsement was a key factor in giving Company A legitimacy in Mr G's eyes.

The representatives of Company A also presented themselves as knowledgeable and professional. Taken together with the apparent success stories shared by the trainers and the formal documentation provided, I don't think Mr G had obvious reason to doubt the legitimacy of the investment at the time.

In light of all this, I am satisfied that he did not act unreasonably in believing that he was dealing with a legitimate business and that the payments were for a genuine investment. Accordingly, I find that he had a reasonable basis for belief, and so this exception under the CRM Code does not apply.

#### **Putting things right**

For the reasons I've explained, I'm satisfied that NatWest needs to pay a refund under the CRM Code. G's investment of £50,000 was partially funded by a £40,000 loan. The remainder came out of G's funds.

NatWest should:

- (1) Reduce the balance on the loan by £40,000; and
- (2) Refund the £10,000 that came from G's own funds; and
- (3) Refund any payments made to the loan after 19 June 2023 (the date NatWest declined the claim).

It should add 8% simple interest per annum to (2) and (3) calculated to run from 19 June 2023 until the date any settlement is paid.

### **Final decision**

For the reasons I've explained above, I uphold this complaint. If G accepts this final decision, National Westminster Bank Public Limited Company should pay redress in line with the instructions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 21 November 2025.

James Kimmitt  
**Ombudsman**