

The complaint

Mr L is unhappy that The Royal Bank of Scotland Plc (RBS) will not refund all the money he lost as the result of an investment scam.

Mr L brought his complaint through a representative. For ease of reading I will refer solely to Mr L in this decision.

What happened

As both parties are familiar with the details of the scam, I will not repeat them in full here. In summary, Mr L saw an advert on social media about investment opportunities so he registered his details as he was looking to invest. He was contacted by someone he believed to be from RBS International (RBSI) and was sold a fixed term bond. He made a CHAPS payment for £250,000 from an RBS branch on 28 February 2025. The receiving bank notified RBS of a scam risk on 17 March 2025.

Once it was confirmed to be a scam, Mr L received three refunds totalling £207,217.25. RBS refunded £84,900 in line with the Faster Payment Service's mandatory scam reimbursement rules. It then added a payment of £40,000 to recognise it could have done more in the branch before processing the payment. And, finally, it was able to recover £82,371.25 from the receiving bank.

Mr L however says it must refund the remaining £42,802.75 as it did not do enough to protect his money. RBS says it is fair it has covered 50% of the payment as Mr L could also have done more to prevent his loss.

Our investigator did not uphold Mr L's complaint. He found it was reasonable that Mr L was held responsible for 50% of his loss due to his inadequate checks before investing. And as some of his money had been recovered he was in essence only taking liability for just under 27% of the loss.

Mr L disagreed with this assessment and asked for an ombudsman's review. He said, in summary:

- He did not act in haste, there was a month between him seeing the advert and sending funds, during this time he tried to involve RBS but they did little to support him.
- All the documentation he received was highly sophisticated and appeared legitimate to the extent that the branch staff did not suspect a scam when they saw it.
- One of the scammers was on the FCA warning list, but he primarily communicated with another individual who was not on the list and seemed to have worked with RBS for years.
- He is not digitally literate and so trusted RBS to review and check the email correspondence from the scammers, but it did not spot they were not legitimate.

- The bank failed to properly review or act upon the documentation which was a serious lapse in its duty of care.

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.

There's no dispute that Mr L made and authorised the payment. I don't dispute Mr L was scammed and he wasn't making the payment for the reason he thought he was, but I remain satisfied the transactions were authorised under the Payment Services Regulations 2017. However, it doesn't end there.

Taking into account the law, regulator's rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider that by February 2025 RBS should fairly and reasonably have:

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;
- have had 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 firms are generally more familiar with than the average customer;
- have acted to avoid causing foreseeable harm to customers, for example by maintaining adequate systems to detect and prevent scams and by ensuring all aspects of its products, including the contractual terms, enabled it to do so;
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment;
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving when deciding whether to intervene.

In this case RBS discussed the payment with Mr L in one of its branches before processing it. It has accepted liability (in part) for Mr L's loss saying more could have been done by the branch staff when Mr L was making the payment.

I agree with that, but what remains in dispute here is whether or not Mr L should also hold some responsibility for his loss by way of contributory negligence. I think he should and I'll explain why.

He argues that he considered the opportunity for a month before investing, but the emails show he received information about the bond he went on to select on 18 February 2025, applied on that same day for an investment account and then sent the money ten days later.

As part of its customer protection checklist, the branch asked Mr L *'Have you responded to an online advert?'* and he answered *'No'*. He was also asked *'Have you been told this opportunity is exclusive to you and for a limited time only?'* and again answered no. However, the email he received on 18 February said *'Please note this is a promotional offering with preferential rates of return available only until 11/03/2025'* so he had been told that. These inaccuracies meant some of the hallmarks of investment scams were not disclosed to the bank, limiting its ability to spot the scam.

Mr L was then asked if he had reviewed the Financial Conduct Authority (FCA) ScamSmart site to research the company and/or financial advisor in more detail and gain further information regarding investment scams. He answered *'Yes'*. But there was a warning on the

FCA website about a cloned firm of RBSI, and in that warning the email address that was being used by one of the scammers is referenced. This warning was first posted by the FCA on 7 June 2024, more than eight months before Mr L made his payment. He argues that he was mainly in contact with a different person. But that does not negate the fact there was publicly available adverse information about RBSI and the other contact when he decided to invest. Had he carried out the checks RBS asked about I think he could have prevented his loss.

In the round, I'm not persuaded Mr L carried out adequate independent checks before proceeding. It seems he relied wholly on the information sent to him by the scammers. I would have expected him to do more given the value of the investment. I note he has said he struggled with technology but I'm sure friends, family or indeed the bank would have helped had he disclosed this and asked for support with the online research.

This means I find it reasonable that RBS has refunded 50% of the loss (plus the recovered funds). To be clear, I don't disagree with Mr L's point that RBS should have done more, just that I find he should have too. Mr L has talked a lot about RBS not spotting that the documentation was fake, but that does not change my finding that his checks were inadequate too.

It follows I am not instructing RBS to refund any more money to Mr L. This is a difficult decision to make, I'm sorry Mr L has lost a considerable amount of money and I can understand why he would like to be compensated for his loss. I do accept Mr L has fallen victim to a sophisticated scam. But I can only consider whether the bank, which had no involvement in the scam itself, should be held responsible for what happened. For the reasons set out above I do not find RBS can be held wholly liable in the circumstances of this case.

My final decision

I am not upholding Mr L's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 29 December 2025.

Rebecca Connelley
Ombudsman