DRN-6061678

The complaint

Mr F complains that Bank of Scotland plc ('BoS') hasn't reimbursed the money he says he's lost to a scam.

What happened

On 31 May 2022, Mr F invested £430,000 with a company I'll refer to as 'J'.

Mr F has explained that:

- J said it had acquired a company I'll refer to as 'A' and was listing it imminently through a Special-Purpose Acquisition Company merger.
- His intention was to invest in A, and he was promised returns of approximately three times his original investment. In the event the listing/merger was unsuccessful, he was told that he would receive the sum he'd invested back, with interest.
- J did not in fact acquire A; A has announced that it has terminated all dealings with J; and he hasn't received any money back from J.

Mr F believes he has fallen victim to an investment scam. He's said that:

- J isn't regulated by the Financial Conduct Authority.
- The International Organisation of Securities Commissions issued a warning about J on 1 July 2024, stating that it is an unlicensed and unregistered entity offering financial products or services.
- The US Securities and Exchange Commission has a clone warning in place, advising that J is being impersonated by a firm with the same name but a different address.

Mr F raised a fraud claim with BoS in August 2025. BoS declined to reimburse Mr F under the provisions of the Lending Standards Board's Contingent Reimbursement Model ('CRM Code') because it said this matter is a civil dispute between Mr F and J.

Mr F referred a complaint to this Service which our investigator considered but didn't uphold. Mr F asked for an ombudsman's final decision.

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.

In considering what's fair and reasonable, I'm required to take into account; relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Having looked at everything, I can see no basis on which I can fairly require BoS to refund the payment in dispute. I realise this will be disappointing news for Mr F, and it isn't the outcome he'll be hoping for, but I'll explain my reasoning below.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that its customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

When BoS processed the payment to J, it was complying with Mr F's payment instruction, as it is obliged to do. At the time, Mr F wanted to pay J and there was no mistake made – his money was sent to the correct account details.

BoS signed up to the CRM Code, and it was in force when the disputed payment was made. Under the CRM Code, the starting principle is that a firm should reimburse a customer who has been the victim of an Authorised Push Payment ('APP') scam. The relevant definition of a scam from the CRM Code is that the customer transferred funds to another person for what they believed were legitimate purposes, but which were in fact fraudulent.

The CRM Code is quite explicit that it doesn't apply to all APPs. It says:

"DS2(2) This code does not apply to:

(b) 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."

So, in order to determine whether Mr F has been the victim of a scam as defined in the CRM Code, I need to consider whether the purpose he intended for the disputed payment was legitimate, whether the payment purposes Mr F and J intended were broadly aligned, and then, if they weren't, whether this was the result of a dishonest deception on the part of J.

From what I've seen and what Mr F has told us, I'm satisfied he made the disputed payment for investment purposes, and I haven't seen anything to suggest that he didn't believe in J's legitimacy at the time. But I'm not satisfied the evidence I've seen suggests that J intended a different purpose for the payment when it was taken, or that Mr F's and J's purposes for the payment weren't broadly aligned at the time. I say this because:

- J was formally incorporated in the UK in 2012, and there is evidence that supports legitimate business operations.

- Mr F has confirmed that he had regular face-to-face meetings with J over a prolonged period, in the UK and in New York, at their registered offices and elsewhere. He also communicated with J about his investment over a prolonged period via messages, telephone/video calls etc. It's not usual for fraudsters to meet and communicate with their victims in this way. Fraudsters normally aim to extract as much money as possible from their victims in a short timeframe (before the fraud comes to light), without being identified.

- Mr F received significant returns from a separate investment with J, as did his friend that introduced him to J. Although the returns are unrelated to the relevant investment opportunity with A, this supports the operation of a legitimate business. Victims of investment scams do not usually receive significant returns.

- Mr F received documentation related to his investment, as would be expected with a genuine investment.

- Communications I've had sight of from A suggest that it did have a relationship with J and there was a planned merger, but J failed to raise the required capital to move forward.

- Amongst other things, Mr F has referred to misrepresentations by J to encourage him to invest. I've carefully considered the arguments he's raised but I'm not persuaded they evidence anything other than poor business practice. That is not the same as the intention to operate a scam. I haven't seen any evidence which suggests that J took Mr F's money knowing it would not be invested as he expected it to be.

- There's evidence to suggest J has been cloned as Mr F has pointed out, but there's no evidence to suggest that he wasn't dealing with the genuine company.

Most investments carry a level of risk. Overall, although I accept that Mr F may not have received what he expected to as a result of his investment, that alone is not sufficient to bring the matter under the scope of the CRM Code. I must be satisfied that the evidence shows a clear intent to defraud Mr F from the outset. And I must be satisfied that other viable explanations for the investment failure can be ruled out.

Overall, I don't think the available evidence indicates that Mr F has fallen victim to a scam. From what I've seen, he's invested with a legitimate (albeit unregulated) business, and his genuine investment hasn't proceeded as expected because the planned merger failed due to an inability to raise capital. I don't know what has happened to the money Mr F originally invested. I understand he expected it to be returned to him, with interest, if the investment with A did not proceed as planned. But I'm still not persuaded there's an indication that J set out to deceive or trick Mr F into paying money over which it had no intention of investing considering the available evidence. As such, I think this matter is a civil dispute between Mr F and J, and I don't think BoS is responsible for reimbursing Mr F because of any obligation under the CRM Code.

It's possible that new material evidence may become available at a future date, which suggests that J did dishonestly deceive Mr F when taking the disputed payment. If that happens, Mr F can ask BoS to reconsider his claim and, if he's not satisfied with its response, he can bring a new complaint to our Service.

Looking beyond the CRM Code, at a firm's responsibilities to protect customers from financial harm through fraud, I can still find no reason to say BoS ought to bear responsibility for Mr F's loss. The reasoning here is broadly the same as above, given that the disputed payment wouldn't be defined as being made as part of an APP scam. But, beyond that, if BoS had intervened effectively in the disputed payment, I'm not persuaded it would have uncovered that an APP scam was taking place considering the information that was widely available at the time, and the evidence that's available now.

My final decision

For the reasons I've explained, 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 F to accept or reject my decision before 9 April 2026.

Kyley Hanson
Ombudsman