

The complaint

Mr S complains that Starling Bank Limited ("Starling") won't refund over £223,000 he lost to a cryptocurrency investment scam beginning in February 2021.

What happened

The details of this complaint are well known to both parties, so I won't repeat everything again here. In brief summary, Mr S fell victim a cryptocurrency investment scam after he registered his interest with a scam investment broker ("T") he found online. He said he saw many positive reviews about the broker and was encouraged to invest after speaking with the scammer.

Between February and October 2021, Mr S made the following payments (consisting of his own money, as well as funds he invested on behalf of others) from his Starling account to his Binance wallet, where his funds were subsequently transferred on to the scammer:

Date	Transaction Type	Payee/Recipient	Amount
23/02/2021	Faster Payment outwards	Binance	£1.00
23/02/2021	Faster Payment outwards	Binance	£10.00
23/02/2021	Faster Payment outwards	Binance	£200.00
23/02/2021	Faster Payment outwards	Binance	£7,500.00
23/02/2021	Faster Payment outwards	Binance	£6,600.00
24/02/2021	Faster Payment outwards	Binance	£1,089.00
25/02/2021	Faster Payment outwards	Binance	£5,000.00
25/02/2021	Faster Payment outwards	Binance	£1,000.00

01/03/2021	Faster Payment outwards	Binance	£1,090.00
02/03/2021	Faster Payment outwards	Binance	£8,500.00
02/03/2021	Faster Payment outwards	Binance	£3,000.00
03/03/2021	Faster Payment outwards	Binance	£2,500.00
04/03/2021	Faster Payment outwards	Binance	£20,600.00
11/03/2021	Faster Payment outwards	Binance	£1,500.00
22/03/2021	Faster Payment outwards	Binance	£19,999.00
22/03/2021	Faster Payment outwards	Binance	£5,000.00
09/04/2021	Faster Payment outwards	Binance	£17,000.00
21/04/2021	Faster Payment outwards	Binance	£11,000.00
21/04/2021	Faster Payment outwards	Binance	£10,850.00
23/04/2021	Faster Payment outwards	Binance	£14,600.00
29/04/2021	Faster Payment outwards	Binance	£13,620.00
12/05/2021	Faster Payment outwards	Binance	£12,800.00
14/05/2021	Faster Payment outwards	Binance	£21,900.00
17/05/2021	Faster Payment outwards	Binance	£3,340.00

19/05/2021	Faster Payment outwards	Binance	£10,820.00
19/05/2021	Faster Payment outwards	Binance	£50.00
02/06/2021	Card Payment	Binance	£180.00
26/09/2021	Faster Payment outwards	Coinbase	£1,000.00
26/09/2021	Faster Payment outwards	Coinbase	£5,850.00
27/09/2021	Faster Payment outwards	Coinbase	£950.00
11/10/2021	Faster Payment outwards	Coinbase	£5,500.00
15/10/2021	Faster Payment outwards	Coinbase	£4,030.00
22/10/2021	Faster Payment outwards	Coinbase	£150.00
22/10/2021	Faster Payment outwards	Coinbase	£150.00
22/10/2021	Faster Payment outwards	Coinbase	£150.00
27/10/2021	Faster Payment outwards	Coinbase	£5,530.00

Mr S realised he'd been scammed when T ceased all contact with him after he attempted to withdraw his investment profits. He reported the fraud to Starling but the bank said it wouldn't refund the money he lost as he'd authorised the payments. Unhappy with this, Mr S referred the matter to our service.

Our investigator didn't uphold the complaint. He thought that Starling ought to have made further enquiries in light of the unusual payments being made from the account, but he didn't think this would've ultimately prevented the scam, as Mr S hadn't been honest when he was questioned by another of his banks that was part of the same scam. Mr S disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the investigator for the following reasons:

- It isn't in dispute that Mr S authorised the disputed payments he made to his crypto wallets (where his funds were subsequently transferred on to the scammer). The debit card and faster payments were requested by him using his legitimate security credentials provided by Starling, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, I've considered whether Starling should have done more to prevent Mr S from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character.
- Mr S opened the account with Starling the day before he started making the disputed payments, so I'm mindful that the bank wouldn't have had any transaction history to compare his spending against. However, even still, I'm satisfied there was enough suspicious activity present on the account such that Starling should have made further enquiries about the nature of the payments being made, such as the £7,500 payment made on 23 February 2021, which was the fourth payment being made to the same payee (Binance) that day. There was also a significant escalation in the value of payments being made when he paid £20,600.00 to Binance on 4 March 2021.
- But even accepting that Starling should have intervened and questioned Mr S about the payments at either of these points, I'm not persuaded this would have ultimately prevented the scam in any event. I say this because it appears that Mr S would not have been completely upfront about what he was doing with his money.
- As part of the same scam, Mr S had made payments from an account held with another bank, which contacted him in February 2021 to question him about the payments he was making. Mr S was asked if the payment was for an investment, but he said, *"it's not an investment, it's purely for a banking app"*. He explained that the purpose of him transferring money to Binance was to effectively use it as another bank account, despite this being untrue. The purpose of him transferring money to his Binance wallet was so he could invest with T, but he did not disclose this information when asked if he was investing through Binance and instead gave a misleading answer. It isn't clear if Mr S had been coached by the scammer to lie to his banks if he was ever questioned about the payments he was making. And I acknowledge that this service did not consider the intervention by the other bank to have gone far enough in the circumstances. But it still indicates that Mr S would've likely given the same misleading information if he'd been questioned by Starling as well – i.e. that he was not making an investment and was simply using Binance as another account to hold his money.
- Therefore, while I think Starling ought to have done more in light of the suspicious payments being made from the account, I'm not persuaded any form of intervention it could've made would have likely prevented Mr S's loss, as it seems likely he would have continued to provide misleading information in order to make the payments, as he did with his other bank.
- Mr S had also told his other bank that he had fully researched who he was dealing with. He said he found positive reviews about T, and it doesn't appear there was any significantly adverse information about the broker published at the time Starling

should've intervened (indeed, he confirmed with his other bank that he had checked the FCA's scam watchlist as well). So, even if he was honest with the bank and it told him to conduct further research, it doesn't seem he would've found anything significant that would've led him to believe he was being scammed in any event. Therefore, taking all these circumstances into account, I don't consider Starling's failure to intervene can reasonably be considered as the proximate cause of Mr S's loss in these circumstances.

- I also don't think there was anything more Starling could've done to recover the money Mr S lost after the fraud was reported. In terms of the debit card payments, a chargeback claim would've had little prospect of succeeding given Mr S would've received the asset he had purchased (i.e. the cryptocurrency). Similarly, for the faster payments, there would've been no prospect of recovering the money from the receiving accounts either, given we know these accounts were controlled by Mr S, who had already transferred the funds on to the scammer by the time the fraud had been reported.

I appreciate this will likely come as a disappointment to Mr S, and I'm sorry to hear he has been the victim of such a cruel scam. However, I'm not persuaded that Starling can fairly or reasonably be held liable for his loss in these circumstances.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 February 2024.

Jack Ferris
Ombudsman