

The complaint

Mr and Mrs O are unhappy that Bank of Scotland plc trading as Halifax ("Halifax") won't refund money they lost as a result of a scam.

What happened

Although the account from which the payment in dispute was made was held by Mr and Mrs O, it was Mr O who interacted with the fraudsters. So, for ease, I've mostly referred to him throughout this decision.

A life-long friend and financial advisor recommended a trading company (that I'll call B) to Mr O. His friend appeared to be doing very well from the investment and claimed he had made lots of profit and had already been able to withdraw £50,000 from his 'investment'.

Mr O was introduced to a representative of B. The representative appeared to Mr O to be very credible. Mr O was signed up to a telegram group that contained people he knew who had also invested in this company. Mr O was told that he could only make withdrawals after three months.

Mr O agreed to invest and made three transfers to Binance totalling £7,000 in which he purchased crypto and forwarded this on to B. After three months, Mr O was not able to withdraw his "profits" and after some back and forth with B, he discovered that his friend had also not actually been able to withdraw his profits and at this point Mr O realised he had in fact been scammed. Mr O believes Halifax didn't do enough to protect him.

Mr O reported the matter to Halifax. It didn't think it had made an error, so declined his claim. Mr O referred the matter to our service and one of our Investigators thought that Halifax should have questioned the payments, given their unusual nature. She noted that there was evidence of a call with Halifax around this time, but from the notes of the call the questions asked were not sufficient. That said though, she did not think an intervention would have changed Mr O's decision to carry on with the transactions - given the circumstances that led to Mr O investing in the first place.

Mr O, through his representatives, didn't agree. As no agreement could be reached, the case was passed to me for a 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.

Mr O has accepted he authorised the payments he made to Binance, so the starting point here is that Mr O is responsible for making the payments. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

There is no doubt that the payments made were unusual compared to the typical transactions on Mr O's account, and they did prompt Halifax to call Mr O to check that they were legitimate payments. Due to the circumstances of the payments that were made from Mr O's account, I think that Halifax should have asked Mr O more probing and in depth questions, to find out what the payments related to. Had Halifax done this, I think it's likely Mr O would have explained the reason he was making payments to Binance.

Had Halifax asked these questions they would have discovered that B was making the payments to purchase cryptocurrencies on the recommendation of a life-long friend who was, importantly, also a financial advisor. I also think it's likely that Mr O would've assured Halifax that the same person who'd recommend he do this, had made a profit and had already been able to withdraw funds - without experiencing any problems. I also think it's possible that Mr O would've pointed out that he knew others that had made such payments too.

So in the circumstances, had Halifax asked more probing questions, I think it's likely that Mr O would've been able to explain what the payments were for and assure Halifax that people he trusted had done the same and so he had no concerns about the payments. And so I think Halifax would've had no choice but to let the payments be made

Furthermore, had Halifax warned Mr O that the payments he was making could be part of a scam, I'm not persuaded that Mr O would have been dissuaded from going ahead with the transactions. Mr O was recommended the investment by a lifelong friend who was a financial advisor. The friend initially said that he had made and withdrawn "profits". He's also said how credible he found the fraudster. And, finally there were no credible warnings available online about B either.

I note that Mr O's representative has explained that Halifax could have directed Mr O to see if B were registered with the FCA. But my understanding is that this would have been highlighted in a warning that would have been shown when Mr O was transferring money to Binance. So I don't think it being mentioned again would have changed anything.

It therefore follows that I can't reasonably tell Halifax to refund any money to Mr O.

I'm sorry Mr O 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 O 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 Halifax can be held responsible – even partly - in the circumstances of this case.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 30 October 2023.

Charlie Newton

Ombudsman