

The complaint

Mr M complains that Clydesdale Bank Plc (trading as “Virgin Money”) won’t refund over £16,000 he lost to an investment scam in June 2022.

The details of this complaint are well known to both parties so I won’t repeat everything again here. Instead, I will focus on giving the reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator and have decided not to uphold it for the following reasons:

- It isn’t in dispute that Mr M has fallen victim to a scam here, not that he authorised the disputed payments he made to his crypto wallet from his Virgin Money account (where his funds were subsequently transferred on to the scammers). The payments were requested using his legitimate security credentials provided by Virgin Money, 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 Virgin Money should have done more to prevent Mr M 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.
- It’s common ground that some of the payments Mr M made were unusual given that they did trigger the bank’s fraud prevention systems and were automatically blocked pending further enquiry – such as the £2,000 payment made on 27 June 2022. Accordingly, it’s just a question of whether the bank went far enough in all the circumstances with its intervention.
- Having considered the questions Virgin Money asked during its intervention – as well as the responses given by Mr M – I’m not persuaded there was anything further the bank could have done to have prevented the scam. Virgin Money asked Mr M on more than one occasions whether he was in contact with anyone else about the investment, to which he said he wasn’t. Mr M said he had been thinking about investing for a while and that he wasn’t taking advice from anyone else, despite this being untrue. He also misled the bank and said that no one had asked him to open any accounts as part of the investment, despite having set up a cryptocurrency account at the scammer’s instruction.
- It isn’t clear why Mr M wasn’t upfront with Virgin Money in explaining what he was doing. But it was based upon the answers he gave that the bank was satisfied the payment wasn’t likely being made as part of a scam. If he had answered the questions honestly and said he was in contact with a third-party broker that had told him to open a cryptocurrency account to send money to, then I accept it would have been incumbent

on Virgin Money to maintain suspicion and probe further into the circumstances. But seeing as Mr M was not forthcoming with these details, I don't think there was any failing on the bank's part to probe any further into how he came to be making the investment in the first place, as he had confirmed on more than one occasion that he had decided to do this himself.

- So, in these circumstances, I don't consider it would be fair and reasonable to hold Virgin Money liable for Mr M's loss, because it seems more likely than not that he would have always made the payment to the scammers, notwithstanding any intervention made by the bank.
- Virgin Money reached out to the beneficiary bank after Mr M reported the fraud, but I can see it was told that no fiat funds remained in the receiving account, which isn't surprising given we know that Mr M purchased cryptocurrency and then sent it on to the scammer. So, I don't think there was anything more Virgin Money could have done here to recover the funds either.

I appreciate this will likely come as a disappointment to Mr M, and I'm sorry to hear he has been the victim of a cruel scam. However, I'm not persuaded that Virgin Money 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 M to accept or reject my decision before 18 December 2023.

Jack Ferris
Ombudsman