

Complaint

Ms A is unhappy that Barclays Bank UK PLC hasn't reimbursed her after she fell victim to a scam.

Background

In September 2019, Ms A fell victim to an investment scam. An acquaintance told her about an investment opportunity being managed by a man who I'll refer to as Mr C. The details of the proposed investment aren't entirely clear. Nonetheless, this acquaintance assured Ms A that she could trust Mr C to handle things. She was told that an investment of £50,000 would yield a return of £25,000 in a period of three to four weeks.

It wasn't until 2023 that Ms A told Barclays what had happened. She hadn't realised that she might be entitled to reimbursement from her bank. Barclays considered what happened under the terms of the Lending Standards Board's Contingent Reimbursement Model (CRM) Code and agreed to refund 50% of the money Ms A had lost. However, it said that one of the Code's exceptions to reimbursement applied – it didn't think that Ms A had done enough to ensure that the investment opportunity was a legitimate one before agreeing to transfer her money.

It was looked at by an Investigator who thought a 50% reimbursement was fair and reasonable. The Investigator noted that Ms A had told her she hadn't carried out much in the way of checks to ensure that the investment opportunity was genuine. The Investigator also thought that Ms A had invested in something without really understanding what it was.

Ms A disagreed with the Investigator's view. She said that she had in fact conducted very extensive research on the individual she was investing her money with and hadn't found anything of concern. She also said that it's unfair to say that she didn't know enough about the investment. She said that Mr C had told her some general information about it and that she doesn't see how she could've got any more information about it from him. Because Ms A disagreed with the Investigator's view, the complaint has been passed to me to consider and come to a final decision.

Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In broad terms, the starting position at law is that a firm is expected to process payments and withdrawals that a customer authorises, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account. However, that isn't the end of the story. Barclays is a signatory to the CRM code. This code requires firms to reimburse customers who have been the victim of authorised push payment ("APP") scams, like the one Ms A fell victim to, in all but a limited number of circumstances.

Under the CRM Code, a firm may choose not to reimburse a customer if it can establish that:

- The customer ignored an effective warning in relation to the payment being made; or
- In all the circumstances at the time of the payment, in particular the characteristics of the Customer and the complexity and sophistication of the APP scam, the customer made the payment without a reasonable basis for believing that: the payee was the person the customer was expecting to pay; the payment was for genuine goods or services; and/or the person or business with whom they transacted was legitimate.

There are further exceptions within the CRM code, but they don't apply here.

Barclays has already reimbursed 50% of Ms A's losses. It should've provided her with a warning when this payment was made and I've not seen any evidence that it did, so it didn't meet the standards for firms as defined in the Code. However, it continues to argue that the second exception set out above is applicable to this case – i.e., that she made this payment without a reasonable basis for believing the investment was legitimate.

I've considered its arguments carefully and I'm afraid I've come to the same conclusion. The returns Ms A was promised were too good to be true. She was told that she could earn a 50% return on her investment in as little as three weeks. This would be an annual return of 650%. I think such an unusually generous return should've prompted her to take further steps to ensure that the investment opportunity was a legitimate one.

Ms A initially told the Investigator that she didn't carry out any checks and didn't really know what she was investing in or who Mr C was. However, in response to the Investigator's view she said that she conducted checks on social media, Companies House and various other sources. She says that she checked extensively all information available in the public domain to find anything on Mr C. Although I accept that she didn't find anything that suggested a risk of fraud, if information was so difficult to come by should in itself have been a cause for concern. If Mr C were genuinely a person involved in a legitimate investment company, I'd expect that company to have an online footprint of some kind.

From her conversation with our Investigator, it sounds as if Ms A didn't really know who Mr C was or who he worked for, but she was persuaded by the recommendation of her acquaintance. Unfortunately, I think in the light of the unrealistic returns she'd been promised, I think she ought to have taken greater care.

For completeness, I've also considered whether Barclays did everything it should've done once Ms A notified it that she'd fallen victim to a scam. I can see that it did make contact with the receiving bank – i.e. the bank that operated the fraudster's account – but unsurprisingly, Ms A's money was no longer in that account. The Code doesn't require banks to pursue customer money beyond that initial transfer. But in any event, after such a long delay, it wouldn't be realistically possible for Barclays to trace Ms A's funds.

I don't say any of that to downplay or diminish the fact that Ms A has fallen victim to a cruel and cynical scam. I have a great deal of sympathy for her and the position she's found herself in. However, my role is limited to looking at the actions and inactions of the bank and I'm satisfied it didn't do anything wrong in only refunding half of her losses.

Final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 1 December 2023.

James Kimmitt
Ombudsman