Complaint

Mr J is unhappy that Lloyds Bank PLC hasn't refunded the money he lost when he fell victim to an investment scam.

Background

In 2021, Mr J fell victim to an investment scam. He entered into a conversation with one of the regulars at the gym he attends. That person encouraged him to invest his money. He said he'd been working with the support of an individual who could invest money on Mr J's behalf. Mr J says he was sceptical about this, but this person showed him his bank statements as evidence of the returns he was earning from his investments.

I understand Mr J spoke to the scammer on the phone. He was invited to visit the company's offices, but this wasn't possible. Instead, I understand Mr J met the scammer face-to-face at a service station. This individual told him about the trading strategies he used – these included investments in cryptocurrency, but also investments tied to foreign exchange movements, commodities such as gold and the use of automated trading strategies to generate generous returns.

Mr J says he looked up the company that he'd be paying his money to. On seeing that it had a legitimate footprint on the Companies House register, he was satisfied that it was likely the investment was a genuine one. He agreed to transfer his money. He was asked to sign two documents in connection with the funds he was transferring. These documents weren't agreements that set out how Mr J's money would be managed. Instead, they were unregulated loan agreements between Mr J and the scammer. Mr J loaned the money to the scammer who promised him monthly repayments and an eventual return of his capital. He made his first two payments on 4 October 2021 – each for £10,000. He went on to make four more payments of £5,000. According to Mr J's representatives, the perpetrator of the fraud has since been arrested and is under active police investigation.

Mr J complained to Lloyds. It investigated and agreed to refund 50% of the money Mr J lost to the scam. However, it didn't think it needed to refund the full amount. It pointed out that it had displayed warnings when Mr J made these payments online. It considered that he should've taken greater care and that he lacked a reasonable basis for believing that this was a legitimate investment opportunity.

Mr J disagreed with the response he received from Lloyds and so he referred his complaint to this service. It was looked at by an Investigator who concluded that Lloyds' offer was fair and reasonable. She agreed that Mr J should've been more cautious before agreeing to transfer his money. She came to that conclusion for the following reasons:

- Mr J had some experience of investing in cryptocurrency and so should've been more sceptical about someone promising guaranteed returns.

- The scammer didn't provide anything to show that he was actively investing Mr J's funds, albeit he did provide generic updates about his trading activities to other investors via a social media platform.

- The contract Mr J signed didn't mention anything about the investment and this ought to have been a cause for concern.

She wasn't convinced that Lloyds had contacted the receiving bank – i.e. the bank that operated the fraudster's account – as quickly as it should've done. However, given the timescales involved, she considered that there was no prospect of recovering Mr J's funds.

Mr J disagreed with the Investigator's view. His representatives responded on his behalf. They pointed out that other investors received returns for many months before the scammer ceased all contact. The sole director of the company has been connected with multiple limited companies that have generally only operated for short periods before being struck off the register. The proposal was made more plausible by the fact that there was a genuine company on Companies House. It also pointed out that Mr J visited the company's office *"which contained multiple employees giving him the confidence the investment was legitimate. Visiting the office and seeing them on Companies House makes this incredibly convincing…"*

Because Mr J 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.

Lloyds is a signatory to the Lending Standards Board's Contingent Reimbursement Model (CRM) Code. The starting position under the Code is that banks should refund customers who fall victim to scams like this one, unless it can show that one of the exceptions in the Code applies.

Lloyds has agreed to refund 50% of the money Mr J lost here. Its decision to not refund him relies on one of the exceptions in the code. Lloyds considers that Mr J didn't have a reasonable basis for believing he was entering into a legitimate investment. The crux of this complaint therefore is whether Mr J had a reasonable basis to believe this investment was a legitimate one. I've considered that point carefully and I'm not persuaded that he did.

I accept that he was reassured by the fact that the company had a record on the Companies House register. However, that record described the company as an advertising agency. Its name was also consistent with it being involved in advertising or public relations, rather than investment activity.

It's also significant that the person Mr J was in contact with and had met in person wasn't listed as a director of the company. There have been some suggestions since that the fraudster used multiple names and that this was, in reality, the same person. Nonetheless, at the time Mr J carried out his research, I'm surprised he wasn't more sceptical on noticing that difference.

The returns he promised were significantly more generous than one would typically expect. For example, he was told that a £30,000 investment would yield a return of £9,000 in three months without any obvious risk to his up-front capital. Such a return was clearly too good to be true and I think Mr J should've proceeded with far greater caution than he did.

It's also noteworthy that the paperwork he signed to participate in this investment didn't say anything about how his money would be managed – it doesn't look very much like an investment agreement at all. Instead, it was a short-term loan agreement between Mr J and the fraudster. Although the fraudster provided evidence to show that he was trading on a regular basis, there doesn't appear to have been anything shared with Mr J regarding the progress of his own investments – so it's not clear whether his money was being invested on his behalf or not.

I've also considered the further representations made by Mr J's representatives. They've said that he was persuaded it was legitimate by his visit to the company's premises. However, when Mr J referred his complaint to this service, he told us that he was invited to visit the company but that his work schedule made it impossible. The scammer agreed to meet him halfway at a service station – so this can't have strengthened his conviction that this investment was a genuine one.

I can also see that Lloyds contacted the receiving bank – i.e. the bank that operated the fraudster's account – promptly after Mr J notified it of the scam. Unfortunately, they weren't able to recover any funds.

Overall, I think there were several red flags that ought to have put Mr J on notice of the risk that this investment wasn't genuine. I know he will be hugely disappointed by my decision, but I find Lloyds considered his claim under the CRM Code fairly and so I'm not asking it to pay him further compensation. And even if I were to look at the bank's other obligations in respect of protecting customers from financial harm due to fraud, I'm satisfied it wouldn't justify an award of more than 50%.

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 Mr J to accept or reject my decision before 6 October 2023.

James Kimmitt
Ombudsman