

The complaint

Mr J complains that Lloyds Bank PLC (Lloyds) is refusing to refund him the amount he lost as the result of a scam.

Mr J is being represented by a third party. To keep things simple, I will refer to Mr J throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mr J was searching online for a business he could trade cryptocurrency with. He came across a business called Capital Markets 365 (X) that had mixed reviews. Persuaded by the professional look of the website Mr J completed a data capture form.

Shortly after completing the form Mr J was contacted by X. X appeared professional and asked Mr J to open an account with Crypto.com. X also asked Mr J to download the screen sharing application AnyDesk on his phone and laptop so that it could trade on his behalf. Mr J complied with X's requests.

Mr J began to trade and could see the money he sent appear on the trading platforms X had provided him access to. The trading platforms looked professional, and Mr J tells us he had no cause to be concerned.

Mr J made the following payments into the scam via Crypto.com using his Lloyds account:

Date	Payment Method	Amount
25 November 2021	Transfer	£25,000.00
26 November 2021	Transfer	£10.00
27 November 2021	Debit Card	£307.34
27 November 2021	Debit Card	£869.99
27 November 2021	Debit Card	£956.65
27 November 2021	Debit Card	£997.83
27 November 2021	Debit Card	£4,568.50
27 November 2021	Debit Card	£4,589.91
27 November 2021	Debit Card	£4,786.22
27 November 2021	Debit Card	£4,827.45
27 November 2021	Debit Card	£4,359.77
27 November 2021	Debit Card	£4,361.89
27 November 2021	Debit Card	£4,367.86
30 November 2021	Transfer	£20,000.00
6 December 2021	Refund	- £70.00
16 December 2021	Refund	- £893.46
7 January 2022	Refund	- £853.27
11 February 2022	Transfer	£3,999.00

1 March 2022	Debit Card	£2,898.23
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X persuaded Mr J to finance further investments by taking out a loan (with a separate business). But when Mr J attempted to withdraw funds from the investment to pay his loan back, he was unable to and at this point realised he had fallen victim to a scam.

Our Investigator considered Mr J's complaint but didn't think it should be upheld. Mr J disagreed so this complaint has been passed to me to decide.

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.

It has not been disputed that Mr J has fallen victim to a cruel scam. The evidence provided by both Mr J and Lloyds sets out what happened. What is in dispute is whether Lloyds should refund the money Mr J lost due to the scam.

Recovering the payments Mr J made

Mr J made payments into the scam via the method of transfer and his debit card.

When payments are made by card the only recovery option Lloyds has, is to request a chargeback.

The chargeback scheme is a voluntary scheme set up to resolve card payment disputes between merchants and cardholders. The card scheme operator ultimately helps settle disputes that can't be resolved between the merchant and the cardholder.

Such arbitration is subject to the rules of the scheme, meaning there are only limited grounds and limited forms of evidence that will be accepted for a chargeback to be considered valid, and potentially succeed. Time limits also apply.

Mr J was dealing with X, which was the business that instigated the scam. But Mr J didn't make the debit card payments to the scammer directly, he paid a separate cryptocurrency exchange (Crypto.com). This is important because Lloyds was only able to process chargeback claims against the merchant he paid (Crypto.com), not another party.

The service provided by Crypto.com would have been to convert or facilitate conversion of Mr J's payments into cryptocurrency. Therefore, Crypto.com provided the service that was requested; that being the purchase of the cryptocurrency.

The fact that the cryptocurrency was later transferred elsewhere – to the scammer – doesn't give rise to a valid chargeback claim against the merchant Mr J paid. As Crypto.com provided the requested service to Mr J any chargeback attempt would likely fail.

When a payment is made by transfer Lloyds has limited options available to recover the funds and it is unlikely Lloyds would have been able to recover them from the receiving business as they had already been moved on by the time Mr J made his complaint.

I have also considered if Mr J should have received a refund under the Contingent Reimbursement Model (CRM) code. But the CRM code only applies when domestic payments (as the result of a scam) are sent to another person. Here Mr J sent the payments to an account held in his own name and the scam occurred when his purchased crypto was

moved from that account to the scammer. I'm satisfied the CRM Code wouldn't apply in this scenario.

With the above in mind, I don't think Lloyds had any recovery options available to it for the payments Mr J made.

Should Lloyds have reasonably prevented the payments Mr J made?

It has been accepted that Mr J authorised the payments that were made from his account with Lloyds, albeit on X's instruction. So, the starting point here is that Mr J is responsible.

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.

The question here is whether Lloyds should have been aware of the scam and stepped in and questioned Mr J about the payments. And if it had questioned Mr J, would it have been able to prevent the scam taking place.

The first payment Mr J made into the scam was for the large amount of £25,000. Considering the size of this payment and that it was to a new payee I would expect it to have triggered Lloyds' fraud prevention systems prompting it to step in and ask Mr J questions around the payment before allowing it to be processed.

I can see this payment was stopped and a conversation between Mr J and Lloyds took place. I have listened to a recording of this call.

During this call Mr J confirmed he was making payments to his own account with Crypto.com and that no one was helping him with the payments. He hadn't been in contact with anyone else, and he had not downloaded any software enabling others to gain access to his devices. This was all false information.

Lloyds also explained several different scams that it was seeing at the time, one of which was very similar to that Mr J was experiencing yet Mr J still confirmed he was acting alone.

In a second call Mr J had with Lloyds when he made another large payment of £20,000 on 30 November 2021, he yet again confirmed the same false information he had provided in the previous call.

With the above in mind, I don't think it would have been reasonable for Lloyds to have stopped the payments Mr J was attempting to make. And had Lloyds questioned Mr J about the other payments he made into the scam I am satisfied Mr J would again have given false responses and continued with the investment. I say this because I think Mr J had complete trust in the scam that was presented to him, he has told us how persuasive and credible X appeared to be and Mr J was willing to provide false information to Lloyds when directed by X.

Mr J has further said that Lloyds' systems can pick up when one of its customers has screen sharing software installed on their device and so should have been aware of the scam. But screen sharing software can be installed for a variety of purposes and Mr J confirmed he had not been asked to download any software when making the payments.

So, Lloyds is not responsible for Mr J's loss.

My final decision

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 1 January 2024.

Terry Woodham
Ombudsman