

The complaint

Mr S complains that Bank of Scotland plc ("BOS") won't refund over £8,000 he lost to an investment scam beginning in May 2021.

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 for the following reasons:

- Mr S says he doesn't think the payments were authorised as BOS didn't undertake security checks prior to him making the payments. However, the Payment Service Regulations 2017 do not require security checks to take place in order for a payment to be considered as 'authorised' by the payment service user. It simply requires Mr S to consent to the payments, which I'm satisfied he's done when he carried out the debit card transactions to Moonpay (where his funds were subsequently transferred on to the scammer from his crypto wallet). There's no evidence of anyone else making these payments. They were requested by him using his legitimate security credentials provided by BOS, 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 BOS should have done more to prevent Mr S 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.
- I appreciate that overall, Mr S has lost over £8,000 which is a significant amount of money. But this amount wasn't paid in one large or 'out of character' transaction. It was spread over 11 separate smaller increments which, in my judgment, would not have appeared particularly unusual or out of character when compared with Mr S's spending history. I can see, for example, that Mr S had made multiple legitimate payments to Moonpay prior to the scam. He made as many as three payments to it in one day on 18 December 2020, so the payments he later made to it between May and June 2021 would not have appeared unusual in light of this.
- The value of the transactions was also not significantly unusual, so I don't think any of the activity ought to have been regarded by BOS as suspicious or indicating that he might have been at risk of financial harm. So, I'm not persuaded there was anything that ought reasonably to have triggered BOS's fraud monitoring systems, or that would have required it to make further enquiries with Mr S prior to processing the transactions.
- I've also thought about whether BOS could have done more to recover the funds after

Mr S reported the fraud, as in some circumstances money paid via debit card can be recovered via the bank raising a chargeback claim. However, in these circumstances, Mr S used his debit card to pay money to a legitimate crypto-exchange platform before the funds were subsequently transferred on to the scammer. So, he'd be unlikely to make a successful chargeback claim in these circumstances because the merchant he paid had provided the services as intended (i.e. the purchase of cryptocurrency). Therefore, I do not think BOS were under any obligation to pursue a chargeback for the payments Mr S made either.

I appreciate this will likely come as a disappointment to Mr S, and I'm sorry to hear he has been the victim of a cruel scam. However, in the circumstances, I do not consider it would be fair and reasonable to hold BOS liable for his loss.

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 S to accept or reject my decision before 8 February 2024.

Jack Ferris
Ombudsman