

## **The complaint**

Mr and Mrs R complain that Clydesdale Bank Plc (trading as “Virgin Money”) won’t refund over £82,000 they lost to a cryptocurrency investment scam.

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’ve decided not to uphold it for the following reasons:

- It isn’t in dispute that Mr and Mrs R authorised the disputed payments they made to their crypto wallet from their Virgin Money account (where their funds were subsequently transferred on to the scammers from their crypto wallet). The payments were requested using their 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 and Mrs R 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 understand Mr and Mrs R feel strongly that there was unusual activity on their account that should have been picked up. And I accept that there may have been cause for Virgin Money to have questioned Mr and Mrs R about certain payments they were making to their crypto wallet, as there were some occasions where multiple payments were sent the same day, such as three payments totaling £20,290 being sent on 7 April 2022. Multiple payments being made in quick succession to the same payee can often be indicative of potential fraud, so I accept that Virgin Money had cause to look into this further.
- However, even accepting the payments were out of character and that Virgin Money ought to have intervened, I’m not persuaded that any such intervention would have likely prevented the scam. I say this because Mr and Mrs R said they had been coached by the scammer on what to say to the bank if they were questioned about the payments. They said they were told not to tell the bank that they were making payments towards an investment, for example, and I note that they didn’t choose this payment option when selecting the reason for the payment.
- So, it seems more likely than not that Mr and Mrs R wouldn’t have been upfront about the true nature of the payments even if Virgin Money had questioned them. As a result, I don’t think it would’ve been able to reasonably prevent the scam, and I don’t think Virgin Money’s failure to look more closely into the payments can be considered as the

proximate cause of Mr and Mrs R's loss in these circumstances. As such, I don't consider it would be fair and reasonable to hold Virgin Money liable for failing to prevent the scam.

- I've also considered whether Virgin Money did enough to try and recover the funds after the fraud was reported. But given we know the money was transferred out of Mr and Mrs R's crypto wallet and on to the scammer, there wouldn't have been any prospect of recovering it from the receiving bank. Virgin Money are also under no obligation to refund the money to Mr and Mrs R under the Contingent Reimbursement Model (CRM Code) either, as the Code only applies to transfers made to another person (which this was not, given the funds were paid to their own crypto wallet).

I appreciate this will likely come as a disappointment to Mr and Mrs R, and I'm sorry to hear they have fallen victim to a cruel scam. However, I'm not persuaded that Virgin Money can fairly or reasonably be held liable for their 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 and Mrs R to accept or reject my decision before 7 November 2023.

Jack Ferris  
**Ombudsman**