

## **The complaint**

Mr and Mrs G complain that Lloyds Bank hasn't refunded them in full when Mr G sent a payment for an investment which later turned out to have been a scam.

Mr and Mrs G bring their complaint through a professional representative firm, which has provided evidence and arguments on their behalf. However, in what follows, to aid readability, and because the disputed payment was made by Mr G, I will predominantly be referring to Mr G.

## **What happened**

Mr G explains that he is a client of a large UK investment broker (which I will refer to as B). In common with many other such brokers, B provides an email alerting service notifying interested clients of any upcoming Initial Public Offerings (IPO).

In late 2021, Mr G received an email he says appeared to have originated with B. This recommended he invest in a forthcoming IPO. It said this would enable Mr G to purchase shares in a popular fin-tech company.

Unfortunately, Mr G no longer has a copy of this email but recalls it provided an explanation of why this usually high-risk investment was being recommended for him. He says the email included all of the risk warnings he'd expect – he has previous experience in investing in IPOs.

Mr G was interested in what was suggested and made contact on the number given. He was told to expect a return of between 20% and 30% within the first day of trading. The payment destination he'd been given wasn't the same as he'd usually use when sending payments to B. However, Mr G believed the IPO was being organised by another firm (which he believed to be involved in similar investments – which I'll refer to as C). He says he checked C's legitimate website and saw that a person of the same name he was dealing with worked there.

Based on what he'd been told, Mr G sent a payment of £10,069 by Faster Payments from his and his wife's joint account with Lloyds.

Unfortunately, it transpired that Mr G had been dealing with a scammer rather than B or C. The IPO was fictitious, and his funds were lost. He reported the matter to Lloyds.

Lloyds attempted to recover his funds. The relevant payment had been made to a currency transfer platform, and it seems his money had been immediately dispersed on receipt. So, nothing remained to be retrieved, leaving Mr and Mrs G with a substantial loss.

Lloyds is a signatory of the Lending Standards Board's Contingent Reimbursement Model Code (the CRM Code) which can offer additional protection from APP scams. Lloyds said it wouldn't refund Mr G in full because it didn't think he'd held a reasonable basis for believing he was sending money to whom he thought he was, or that he was paying for genuine shares. But Lloyds reimbursed Mr G half of the loss, accepting a share of the responsibility.

Mr G didn't accept this outcome. He wanted Lloyds to refund him in full.

Our Investigator looked into everything but didn't think Lloyds had treated Mr G unfairly or that it needed to refund him more than the 50% it had paid him. The investigator thought the promise of a return of 20-30% within a day should have prompted Mr G to carry out further checks before going ahead. Had Mr G carried out additional checks he'd have uncovered that this wasn't genuine, and no such IPO was taking place.

Mr G didn't agree. In light of this disagreement, I have been asked to make a final decision on the matter.

### **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.

In deciding what's fair and reasonable in all the circumstances of a complaint, I'm required to take into account relevant: law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to be good industry practice at the time.

In law, Lloyds has a primary obligation to carry out the payment instructions given by its customers in accordance with the payment mandate. As a starting point, a customer is therefore assumed liable for a payment they have instructed to be made.

But that isn't the end of the story. In particular, as I've mentioned earlier, the voluntary CRM Code can provide additional protection where payments have been made as the result of an APP scam. Lloyds hasn't disputed that the additional protections of the CRM Code should apply here. Under the terms of the CRM Code, the bank has reimbursed Mr G half of the money he sent from its account.

Lloyds accepts partial fault, but it considers Mr G must equally share responsibility for the loss. So, what remains for me to determine is whether that is a fair outcome or if, on the contrary, Lloyds can fairly be required to repay the remaining balance.

The CRM Code won't always require a firm to refund payments in full. In particular, it says a firm can choose not to fully reimburse APP scam losses where it can establish the customer made the transactions without having a reasonable basis for believing what they did - including that they were paying for a genuine service. Lloyds seeks to rely on that here.

When considering if Lloyds has treated Mr G fairly in line with the CRM Code, I therefore need to consider whether Mr G made the relevant payment without having held a reasonable basis for believing what he did. I have carefully considered everything Mr G has submitted as well as the evidence submitted by the bank.

To start with there were features here that I consider made this seem plausible. Mr G had received an email from B, a broker he had an established relationship with. I can see from B's website that it offers an email alerting service for IPOs, so I appreciate this email wouldn't necessarily have been unexpected or unusual. Mr G also recalls the email matched B's branding and tone.

But there were factors I think should have caused Mr G to have significant doubts about what was happening. On balance, I consider these were significant red flags that reasonably should have stopped him from going ahead, and from making the payments he ultimately made.

Firstly, it appears Mr G was led to expect a significant return within a single day. He was told to expect a 20-30% return on his investment on the first day of trading. While I appreciate an IPO has the potential to generate such gains, these cannot be assured in the way it appears Mr G was led to believe.

B's legitimate website warns of the risks of investing in an IPO and specifically says it does not offer advice on the suitability of an IPO or endorse an IPO issue. But this is exactly what Mr G says the fraudulent email was doing – he says it recommended this investment to him.

I appreciate that Mr G was given a fake link in the email. I understand that took him to a website mimicking B's own, apparently corroborating the information in the email. But I cannot ignore the fact that Mr G says he had an existing relationship with B as a client. Had he, rather than following the email link, instead gone to B's legitimate website as normal, the deception would have readily been uncovered. B's website has a section listing current and forthcoming IPOs – in which the supposed issue would not have been listed. This would have been a clear contradiction of Mr G's belief at that point.

Furthermore, before making an investment of this type, I'd expect someone who had Mr G's prior experience of making investments to have looked into the company that was supposedly the subject of the IPO.

And while I am satisfied that there was likely speculation online about the potential for the company to issue an IPO at some point in the future, it doesn't seem Mr G would have found anything to corroborate what was said in the email or what he was being told in the subsequent call. There was no substance to the information he'd been given except that contained in the fake webpage he'd been provided a link for.

In short, I think even that even a minimal level of independent research prior to this investment would have sufficed for Mr G to have questioned what he was being told and not have proceeded. Given Mr G's self-professed experience in this type of investment I don't think such a basic level of checking is unreasonable for Lloyds to expect of him.

I appreciate Mr G was attracted by the prospect of making an exceptional return within a matter of hours. What he was being promised was arguably too good to be true without considerable risk. Based on what Mr G has described, it seems the investment was closer to being presented as a sure thing rather than one he risked losing significant sums – again a red flag.

But regardless, I'm not persuaded Mr G researched the matter. The evidence simply doesn't support me reaching such a finding.

Having reviewed everything, I am not satisfied that Mr G could be safely said to have had a reasonable basis for believing he was paying the company he believed he was and for a genuine IPO. Overall, I'm satisfied that Lloyds has fairly established that the exception to full reimbursement under the CRM Code can be applied to Mr G's payments from the joint account.

The CRM Code doesn't represent the full extent of obligations on Lloyds in relation to payments being made from an account – it exists specifically to provide additional protections to scam victims beyond those other obligations. So, ordinarily, that means greater protection is normally available under the terms of the code than outside its provisions. Nevertheless, I have carefully considered whether there are any other reasons here that might make Lloyds liable to a greater extent than the 50% it has already reimbursed.

When Lloyds learned that Mr G had made those payments as the result of fraud it attempted to recover his money, but that had already been removed. The bank accepts it could have acted more promptly here. However, I am satisfied that even had Lloyds acted without delay, no funds would have remained in the beneficiary account to be recovered – the delay made no material difference. In the circumstances, I consider the payment Lloyds has made of £100 to recognise this error is fair, and I do not require it to pay a higher sum.

Nothing else I have seen leads me to find Lloyds was otherwise at fault in relation to the rules and obligations applicable. And even if that wasn't the case, and I instead found Lloyds at fault outside the terms of the CRM Code then I don't consider the circumstances here could fairly and reasonably lead me to award a higher sum than has been paid already.

Rather, I consider that, in reaching a fair outcome, I would need to reduce any such award to reflect contributory negligence (for reasons that are broadly similar to those I have set out above regarding having had reasonable basis of belief at the time of making the payments). And given the circumstances applying here, I consider that would lead me to find it both fair and reasonable that the overall loss should still be borne equally between Lloyds and Mr and Mrs G.

In summary, even were I to set the CRM Code's provisions to one side, I don't find I could fairly require Lloyds to refund Mr and Mrs G by more than the 50% it has already for any other reasons. So, with all of the above in mind, and based on what I've seen, I don't consider that Lloyds needs to do more than it has already done, and it does not need to pay Mr and Mrs G more than it already has.

I am sorry to hear about the deception that led to Mr and Mrs G's financial loss here, and I understand this will not be the outcome Mr and Mrs G want. But I can reassure them that I've carefully considered all the circumstances of their complaint before reaching what I consider to be the fair and reasonable decision in all of the circumstances.

### **My final decision**

For the reasons given above, I do not uphold Mr and Mrs G's complaint about Lloyds Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 24 November 2023.

Stephen Dickie  
**Ombudsman**