

The complaint

Mr and Mrs C complain that Royal Bank of Scotland plc trading as Halifax ('Halifax') won't refund the money they lost.

What happened

Mr and Mrs C are represented in this case. They hold a joint account with Halifax from which the funds were transferred. As Mr C was the one who made the payment in this case, I'll mainly refer to him in my decision.

On 30 November 2017 Mr C made a payment of £10,000 from his joint account to a company I'll refer to as X. The payment was in respect of an investment with a company I'll refer to in this decision as W. Mr C has provided this service with literature provided by W which explains that investors like Mr C could subscribe to a bond which would provide W with funding to facilitate the purchase and operation of supported homes. The fixed rate secured bond certificate Mr C received shows that he was due to receive an annual rate of interest of 7.5% on the unpaid balance and that the bond would mature on 29 November 2019.

Mr C didn't receive the returns he expected from W or his capital and raised a complaint with Halifax. He said that Halifax should have intervened when he made the payment request and provided him with relevant warnings. Had it done so, Mr C believes his loss could have been prevented. I understand that W went into liquidation some time after Mr C made the payment.

Halifax didn't reimburse Mr and Mrs C's loss. It said they had a civil dispute with W.

Mr and Mrs C were unhappy with Halifax's response and brought a complaint to this service.

Our investigation so far

The investigator who considered this complaint didn't recommend that it be upheld. She said that Halifax ought reasonably to have intervened when the payment was made but had it done so Halifax wouldn't have had any concerns. This was because W was an active company at the time of the payment, Mr C was in regular contact with W and received in-depth and professional looking literature, and Mr C could have confidently explained what he was investing in. The investigator also said Halifax couldn't have done anything more to recover Mr and Mrs C's funds, as they were removed from the receiving account before Mr and Mrs C contacted Halifax.

Mr and Mrs C didn't agree with the investigator's findings and asked for a final decision. In summary, they said Halifax should have intervened as the payment request was unusual. If Halifax had done so, the transaction wouldn't have been made. Halifax would have established that Mr C was cold called about the investment opportunity and that he had received advice to invest from an unregulated company (W). Mr and Mrs C's representative also said Halifax should have checked the FCA register and should have known that bond offerings of this nature should only be promoted to high net worth individuals. Finally, Mr and Mrs C's representative said Mr C was vulnerable at the time he made the payment.

The 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.

In deciding what's fair and reasonable, 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 have been good industry practice at the time.

In broad terms, the starting position at law is that a bank is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations and the terms and conditions of the customer's account.

Taking into account the law, regulators' rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider Halifax should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things).
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment.

I've reviewed Mr and Mrs C's bank statements for the twelve-month period before the relevant transaction to determine whether Halifax ought reasonably to have intervened when Mr C made the payment request in 2017. Having done so, it's arguable whether Halifax should have blocked the payment until it had spoken to Mr or Mrs C about it. I can see a transaction for £5,500 in January 2017 and a transfer around a week later for £10,000. The November 2017 transaction was for the same amount, but I accept that between January 2017 and November 2017 there weren't any high value transactions.

But even if I thought Halifax should have intervened, I agree with the investigator that such intervention wouldn't have made a difference. W was incorporated in 2015 and was an active company when the payment was made. Mr C was provided with detailed and convincing literature about his potential investment which advised him to seek independent advice before investing and which set out the risks involved. Payment was made to X, which was FCA authorised at the time. The brochure provided to Mr C by W said it had been approved by X which was FCA regulated and also included a section in respect of "advisors and service providers" which featured X. It wasn't for Halifax to provide investment advice or complete detailed research in respect of W.

So, even if Halifax had intervened, I'm not persuaded it ought reasonably to have had concerns about the transaction Mr C was making.

Halifax has confirmed that Mr and Mrs C didn't make it aware of any vulnerabilities, so it had no reason to provide them with any additional support at the time the payment was made.

Overall, whilst I'm really sorry to hear of Mr and Mrs C's loss, I can't reasonably ask Halifax to reimburse them.

My final decision

For the reasons stated, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 1 February 2024.

Jay Hadfield
Ombudsman