

The complaint

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

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 S tells us he attended a webinar advertised on Facebook. Following the webinar Mr S was added to a WhatsApp group that later moved to Telegram. The group was teaching people how to invest in the stock market.

Mr S was required to open an account with www.ii.co.uk and invest at least £10,000 to be part of the "1 Core Profits Team".

Mr S was shown how previous predictions had been successful and was given advice of when to enter and exit different investments. Mr S made a profit on his investment and was told a "hot" stock was coming.

Mr S was then instructed to take out another investment. But when Mr S logged into his account again, he could see the stock he had been told to invest in was falling substantially. Mr S therefore closed the investment and recovered the remaining funds.

Mr S made the following payments in relation to the investments.

Date	Payee	Payment Method	Amount
20 May 2022	www.III.co.uk	Debit Card	£500.00
21 May 2022	www.III.co.uk	Debit Card	£500.00
1 June 2022	www.III.co.uk	Debit Card	£2,000.00
15 June 2022	www.III.co.uk	Debit Card	£6,849.00
29 June 2022	www.III.co.uk	Debit Card	£9,885.00
13 July 2022	II SL Client	Credit	£3,090.57

One of our Investigators reviewed the complaint and didn't think it should be upheld. They found there was not sufficient evidence to show Mr S had fallen victim to a scam, and Lloyds was not responsible for his loss.

Mr S 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.

Having done so, I don't uphold Mr S's complaint and I'll explain why.

Not every complaint referred to us and categorised as an investment trading scam is in fact a scam. Some cases simply involve high-risk investments that resulted in disappointing returns or losses.

Certain high-risk investment traders may have promoted these products using sales methods that were arguably unethical and/or misleading. However, whilst customers who lost out may understandably regard such acts or omissions as fraudulent, they do not necessarily meet the high legal threshold or burden of proof for fraud, i.e. dishonestly making a false representation and/or failing to disclose information with the intention of making a gain for himself, or of causing loss to another or exposing another to the risk of loss (Fraud Act 2006).

In simpler terms, some merchants may have used sales and promotional methods that could be seen to be unfair by consumers considering the losses they've incurred – but this does not always amount to fraud.

Banks and other Payment Services Providers (“PSPs”) have duties to protect customers against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering. But when simply executing authorised payments, they do not have to protect customers against the risk of bad bargains or give investment advice.

When considering this, I've paid particular attention to the official organisations that publish warnings about merchants that operate in the UK and abroad.

Mr S made payments to www.iii.co.uk.

I've searched the Investor Alerts Portal of the International Organization of Securities Commissions (“IOSCO”), the international body that brings together the world's securities regulators. And the FCA (as the UK regulator) also has its own warning list, which is in place to share alerts and insight about merchants that have been identified as potentially being fraudulent or unauthorised.

Upon checking both, I can see that a warning did appear on the FCA website. It stated that www.iii.co.uk was a genuine business but a clone had been setup of the firm being used to scam people.

Having considered the screenshots provided by Mr S I can see the account he held was with the genuine business, not the clone. We have also contacted the genuine company www.iii.co.uk and it has confirmed that Mr S held an account with it until July 2022 when he closed it withdrawing the remaining balance. This business continues to operate legitimately as of today's date.

While the advice given to Mr S may not have been delivered in a professional way, and was not profitable, he made payments in and out of genuine investments on the www.iii.co.uk platform, none of the payments complained about went to a third party. So, while it appears Mr S has made a loss on the investments, I don't think there is sufficient evidence in this case to show a scam took place.

So, Lloyds does not have to refund any of the payments Mr S has included in his complaint.

My final decision

I don't 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 28 March 2024.

Terry Woodham
Ombudsman