

The complaint

Mrs S complains that Barclays Bank UK PLC did not refund a payment of £10,000 she says she lost to a scam.

What happened

Mrs S says she was approached by a broker who she had used before, and currently had an investment in place they had introduced her to. Mrs S was looking for new investment opportunities so they introduced her to a Bond I'll call 'A'. On 25 June 2020, Mrs S made a transfer of £10,000 to a separate company names 'N' who acted as an intermediary for the funds.

Mrs S has said she received a few of the expected interest payments however after a year or so, these stopped being paid. When she tried to get in touch with the brokers, they no longer responded to her. As a result, she suspected she had been the victim of a scam.

Mrs S raised a scam claim with Barclays in May 2023, via a representative. This was done by letter and despite trying to contact her, Barclays could not get in touch with Mrs S to discuss the claim in more detail. Based on the limited information provided in the complaint letter, Barclays did not agree a refund was due in the circumstances. Mrs S referred the complaint to our service.

Our Investigator looked into the complaint and felt that, based on what they had seen, it was more likely this was a risky investment which had failed as opposed to an authorised push payment (APP) scam. Mrs S' representatives disagreed and pointed out that brokers were receiving 35% commissions for introducing clients to the investment, and that A was providing loans to linked companies with no expectation of repayment, so felt this amounted to a scam.

As an informal agreement could not be reached, the complaint has been passed to me for a final 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.

It isn't in dispute that Mrs S authorised the payment of £10,000. Because of this the starting position – in line with the Payment Services Regulations 2017 – is that she's liable for the transactions. But she says that she has been the victim of an APP scam.

Barclays has signed up to the voluntary Lending Standards Board's Contingent Reimbursement Model ("CRM") code, which provides protection to scam victims. Under the CRM Code, the starting principle is that a firm should reimburse a customer who is the victim of an APP scam (except in limited circumstances). But the CRM Code only applies if the definition of an APP scam, as set out in it, is met. I have set this definition out below:

...a transfer of funds executed across Faster Payments...where:

(i) The Customer intended to transfer funds to another person, but was instead deceived into transferring the funds to a different person; or

(ii) The Customer transferred funds to another person for what they believed were legitimate purposes but which were in fact fraudulent.

So, I've considered whether or not the transactions fall under the scope of an APP scam as set out above. Having done so, I haven't seen enough to agree that it does. I'll explain why in more detail.

Firstly, Mrs S has not provided any evidence about the investment, so I have not seen any brochures showing what she would have seen at the time, how the investment was presented to her, or any invoices or contracts about it. In addition, Mrs S cannot recall what brokerage firm introduced her to the investment and has not provided any communications between herself them. Because of this, it is difficult to safely agree that this was therefore a scam, and not just an investment that was unsuccessful.

I appreciate Mrs S' representatives have said there was a 35% commission for brokers who got clients to invest in A, however I've seen no evidence of this. While this level of commission is high, when considered alone it would also not necessarily indicate the investment was a scam. Having reviewed the entry on Companies House for 'A', I haven't seen anything that indicates to me this was clearly a scam. However, if any new material evidence related to A becomes available following this final decision, Mrs S can ask Barclays to reconsider at the point.

As I've set out above, the CRM Code definition of an APP scam requires that the real purpose of the payment was different to what Mrs S had been led to believe through deception. But Mrs S hasn't provided any evidence of what was agreed between her and A or what A did with the funds after she paid them.

On review of the evidence I have, this doesn't demonstrate that the payment meets the CRM Code's definition of an APP scam. I can't say Barclays was at fault when it said Mrs S's payment wasn't covered by the CRM Code. And I've found that there isn't convincing evidence that Mrs S has been the victim of an APP scam.

So, I think Barclays acted reasonably when it did not agree to refund Mrs S the £10,000.

My final decision

I do not uphold Mrs S's complaint against Barclays Bank UK PLC.

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

Rebecca Norris
Ombudsman