

The complaint

Miss L complains that IFX (UK) Ltd didn't do enough to prevent the loss she suffered when she sent money to its customer's account as the result of an alleged scam.

Miss L has used a representative to bring her complaint, but for ease of reading, I'll mostly just refer to and will ascribe the representative's comments to Miss L.

What happened

The background to the complaint is known to both parties and so I won't repeat it at length here. Across 2019 and 2020 Miss L made several payments to a company called 'H' for investment purposes. Relevant to this complaint is a payment she made in August 2020 for £2,750 from her bank account with 'B' to an account held with IFX. Miss L says initially she was receiving returns as expected, but as time passed these were delayed and eventually stopped altogether. Covid was cited as a reason for non-payment. H eventually entered insolvency proceedings, but Miss L says, based on information that has since come to light, she believes that H were operating a fraudulent "*ponzi scheme*".

Miss L complained to IFX in 2023. She said that it had likely failed: to meet its obligations when allowing its customer's account to be opened; in its monitoring of the recipient account; and in its response when notified of the fraud. Miss L asked that IFX refund her loss. IFX didn't uphold her complaint. In brief, it said that it strongly refutes the allegations against it, which include, failure to comply with know your customer (KYC) requirements, failure to prevent an alleged fraudster from utilising the recipient account and failure to take appropriate steps in light of the alleged fraud. It also said that it was bound by the data privacy laws and confidentiality obligations which prevented it from disclosing any confidential, sensitive or personal data without a court order.

Unhappy with this, Miss L referred her complaint to our service. Our Investigator didn't recommend that the complaint should be upheld. He was not persuaded that there had been a failing by IFX that could fairly and reasonably be said to be the cause of Miss L's loss.

Miss L asked for an Ombudsman's 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.

Having done so, I've reached the same outcome as the Investigator, in so much as, I can't uphold Miss L's complaint. I know this will be disappointing for Miss L, so I'll explain why.

Our Investigator first considered whether at the material time H were operating a scam as Miss L alleges. He concluded that he'd not seen evidence to persuade him that the fundamental purpose of the payment was meaningfully different to what Miss L thought. So overall, he didn't think the available evidence supported that the payment Miss L made to IFX was made as a result of a scam. But I'm not going to make a finding on this point, as in the circumstances of this complaint, I don't need to, to reach what I think is a fair and reasonable outcome.

I say this because firstly, the Lending Standards Board's Contingent Reimbursement Model Code (the CRM code) – a voluntary code through which victims of authorised push payment (APP) fraud, in certain circumstances, can receive reimbursement of their losses isn't an applicable consideration here as IFX are not a signatory of the CRM code.

And secondly, even if I were to accept Miss L has fallen victim to a scam, for me to fairly uphold this complaint, I'd need to be persuaded that there was a failure that took place, and but for that failure her loss would have been prevented. Ultimately, I've not seen anything that persuades me that there has been a failing by IFX in the opening and monitoring of its customer's account or the steps it took when Miss L notified it of the alleged APP fraud, where it can fairly and reasonably be concluded that its act(s) or omission(s) were the cause of Miss L's loss. I say this for the following reasons:

- IFX have provided evidence which shows identification verification and due diligence checks were carried out as part of the account opening process. I have seen copies of the documents obtained and the checks completed. From what I've seen there weren't any failings by IFX in relation to the opening of the recipient account. So it follows that I can't reasonably say that it missed an opportunity to prevent Miss L's loss at that time.
- I also don't think that IFX failed in its monitoring of the recipient account. IFX say there were no notifications of fraud/concerns about the recipient account prior to Miss L's funds arriving and being spent. From the statements I can see that the account activity was in line with what IFX would've expected for an account of that nature and the business of the accountholder. Miss L's payment and the paying away of those funds also wouldn't have appeared unusual or suspicious to IFX. Therefore, I can't fairly conclude that IFX acted unreasonably by not intervening prior to Miss L's funds being paid away.
- Miss L first contacted IFX in 2023 to inform it that she'd made a payment to its customer's account as a result of an alleged scam. I'm satisfied that by this point there wasn't much more that IFX could reasonably have done to assist in the recovery of Miss L's funds from that account.

I'm sorry for the situation in which Miss L finds herself. But as I'm not persuaded her loss is as a result of IFX's acts or omissions (within the context of what falls within my jurisdiction), there isn't a fair and reasonable basis upon which I can direct it to do more to resolve this complaint.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 17 December 2024.

Sonal Matharu
Ombudsman