

## The complaint

Mr K complains that Kroo Bank Ltd (Kroo) is refusing to refund him the amount he lost 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 K said that he visited a well-known investment company's website as he was looking for an ISA to invest in. A few days later Mr K was contacted by an individual claiming to work for the same genuine investment company, but it later came to light that this was a scammer impersonating the genuine firm. I will call the scam company X.

Having communicated with X via calls and emails Mr K agreed to make an investment for a total of £10,000 and was promised an interest rate of 6.1%.

Mr K says he opened several accounts with X and attempted several payments that were rejected, but the payments listed below were successful. Payment 1 was later refunded by Kroo as it said it could have done more to protect Mr K:

Payment	Date	Payee	Payment Method	Amount
1	19 July 2023	HL Deposits	Transfer	£4,700
2	20 July 2023	HL Deposits	Transfer	£5,300

Mr K was required to keep the funds in the ISA for a full year to gain the agreed rate of interest but as he had unexpected bills, he attempted to make a withdrawal. When he tried to make a withdrawal, X told him he would need to wait one month before a withdrawal could be processed.

Mr K says that when a month had passed, he hadn't received his funds so attempted to contact X but was unable to get through. Mr K searched the genuine investment company online and got in touch with it via a number listed on its website.

Mr K then found that the person he had been speaking to did not work for the genuine investment company and he had fallen victim to a scam.

Our Investigator considered Mr K's complaint and thought it should be upheld. Kroo didn't respond to our Investigator's assessment, 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.

It has not been disputed that Mr K has fallen victim to a cruel scam. The evidence provided

by both Mr K and Kroo sets out what happened. What is in dispute is whether Kroo should refund the money Mr K lost due to the scam.

### *Recovering the payments Mr K made*

Mr K made the payments into the scam via transfer. When payments are made by transfer Kroo has limited options available to it to recover the payments. Kroo did contact the provider of the recipient account to request a refund of any funds that remained in the account, but unfortunately no funds remained.

With this in mind, I don't think Kroo had any reasonable options available to it to recover the payment Mr K made in relation to the scam.

### *Should Kroo have reasonably prevented the payments Mr K made?*

It has been accepted that Mr K authorised the payments that were made from his account with Kroo, albeit on X's instruction. So, the starting point here is that Mr K is responsible.

However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.

The question here is whether Kroo should have been aware of the scam and intervened when the payments were made. And if it had intervened, would it have been able to prevent the scam taking place.

When Mr K made payment 1 Kroo intervened and asked him a series of questions. Mr K was honest in his response explaining that he was making an investment. Mr K also provided documentation about the investment to Kroo, and the payment was released.

I think Kroo could and should have done more when it discussed payment 1 with Mr K. Mr K was honest about the reason for the payment being made and provided a document to support the investment he was making.

At the time Mr K made the payment there was a warning published on the Financial Conduct Authority (FCA) website that the genuine firm had been cloned; it also gave advice on how a customer could confirm that the firm they were dealing with was the genuine business.

I think Kroo should have been aware of the information recorded on the FCA website and have updated its systems with the information in a way that was available to its staff when payments were attempted, like that made by Mr K.

Had Kroo identified the warning published on the FCA's website and made Mr K aware of it when it discussed payment 1 with him, I think it's most likely Mr K would have carried out more research before making any payments into the investment. And given the guidance on the FCA website I think it's unlikely Mr K would have attempted payment 2 or any other payments.

Kroo is therefore responsible for Mr K's loss.

### **Putting things right**

To put things right Kroo Bank Ltd should:

- Refund payment 2 that Mr K made in relation to the scam

- Add 8% simple interest per year to the amount it pays Mr K from the date of the loss to the date the payment is made (less any lawfully deductible tax)

### **My final decision**

I uphold this complaint and require Kroo Bank Ltd to put things right by doing what I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 January 2025.

Terry Woodham  
**Ombudsman**