



Case study: Banking

LOSS OF FUNDS DUE TO FRAUDULENT CRYPTO CURRENCY INVESTMENT

Themes: Crypto currency; fraud; inconsistent transactions, bank's response to complainants' claim.

This complaint relates to a bank's failure to identify potentially fraudulent payments and prevent the transfer of funds authorised by the complainants to a fraudulent crypto currency 'investment'.

Between November 2022 and January 2023 Mr & Mrs T made a number of bank transfers to an online banking platform to make onward investments into crypto currency. The crypto firm at first wanted the complainants to set up a new account with a specific online platform, but because the account opening process was taking too long, they told the complainants to make the transfers using a different platform. Most of the transfers were made using this method but, as the complainants' funds diminished, they made their final payment with a bank card.

In January 2023 the complainants began to suspect they had been victims of a fraud, when the fraudsters asked them to obtain a loan to make further investments. When the complainants declined, the fraudsters refused to refund their 'investment' and broke off all communication. The complainants then contacted their bank to seek reimbursement for the fraudulent payments totalling approximately £87,000. The bank said they had acted in accordance with the complainants' instructions, and they could seek legal advice if they wished. The complainants took legal advice from a UK law firm which specialises in dealing with fraud claims. The complainants continued to seek recovery of the fraudulent payments. The bank maintained their position and did not uphold their complaint. It was at this point their bank advised them they could refer their complaint to CIFO.

CIFO investigated and found that the complainants had approached the fraudsters regarding the investment opportunity via a social media platform and had made a number of large payments in quick succession. The complainants complained that at no time had their bank advised of any potential scam or provided any fraud warnings in response to their payment requests. However, CIFO did note that the complainants' bank had provided a generic fraud warning when processing the first payment. CIFO concluded that Mr & Mrs T's bank should have identified the inconsistency of the transactions and intervened by contacting the complainants to question them.

CIFO also noted that the complainants' bank had failed to advise the complainants of their right to refer their complaint to CIFO in their response letter, as is required by law, but instead had suggested the complainants seek legal advice. CIFO concluded accordingly that the bank should be responsible for the legal costs incurred by the complainants in pursuing their complaint against the bank. CIFO upheld the complaint and recommended the complainants' bank compensate the complainants the total amount of payments made to the fraudsters, plus interest of 8%. In addition, CIFO recommended the complainants' bank compensate Mr & Mrs T's solicitors' fees in full, bringing

the total compensation to about £127,000. The bank initially rejected CIFO's recommendation but eventually agreed to settle the complaint in full in line with CIFO's recommendations.