

The complaint

Mr C is unhappy HSBC UK Bank Plc won't refund transactions he made from his HSBC accounts to a fraudulent investment firm.

What happened

In July 2019, Mr C made two payments to buy bitcoin. He made one payment from his credit card and one payment from his current account, using his debit card. He was instructed by a fraudulent investment firm, ZXOptions, to legitimately buy the bitcoin and then transfer it to them to 'invest' with. Mr C believed he had invested, and his investment was growing. But when he attempted to withdraw funds, he discovered he'd been the victim of a scam.

Mr C contacted HSBC and asked it to help him recover the funds. HSBC started the processes to complete a chargeback and a Section 75 claim for Mr C, but the merchant refused to refund the money, as it showed it had supplied Mr C with the bitcoin. HSBC accepted this and so didn't pursue these further. It also didn't agree it should've prevented these transactions from being processed. Mr C disagreed and raised a formal complaint, but HSBC didn't change its outcome.

Mr C brought his complaint to our service, but our investigator didn't agree HSBC had done something wrong. He agreed that neither a chargeback nor Section 75 claim would've been successful, as Mr C hadn't paid the scammer direct. And he didn't think the value of the transactions were high enough, or that they were unusual enough, for HSBC to have intervened in the payments and asked Mr C any questions. Mr C asked for an ombudsman to review his complaint.

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.

Mr C has said that HSBC should get his moneyback via chargeback, as he didn't in fact receive an investment service from ZXOptions, as it was a scam. But as I've set out above, Mr C didn't pay directly, he used his card to buy bitcoin and then transferred this to the scammer. So I can't say it was unfair of HSBC not to pursue a chargeback, as this process wouldn't be successful. The bitcoin provider did fulfil its role and provide Mr C with the service he paid for, so there's no chargeback claim here. And the bitcoin provider isn't responsible for the fact he then passed the bitcoin to ZXOptions and it was stolen.

In relation to the credit card payment, Mr C's also mentioned a claim under Section 75. But as above, for this to be successful there has to be a misrepresentation or breach of contract by the supplier – so the bitcoin provider, as this is who Mr C paid. And there wasn't one. His complaint is about how ZXOptions misrepresented itself to him, but they aren't the party Mr C paid using his credit card. So I'm also satisfied that he doesn't have a successful Section 75 claim.

I've then considered whether HSBC should've blocked either of these transactions or

contacted Mr C to discuss the payments further, before processing them.

I've looked at the value of the payments, their destination and the general activity on Mr C's account to decide whether or not HSBC should've intervened in these payments. Neither payment was for more than one thousand pounds and as Mr C was buying genuine bitcoin to send to the scammer, he was paying a genuine merchant. So I don't think the amounts being sent or the destination of the payments ought to have caused HSBC any concern.

Mr C has said that if HSBC had searched for ZXOptions online it would've found warnings about them and poor reviews. But there was nothing to link these payments to ZXOptions from HSBC's perspective, as they didn't go direct. And, while I accept this was a sophisticated scam, Mr C could've performed that search himself, as he did know who the end recipient was. Although from my own research, these warnings in fact appeared after Mr C had made the payments.

I've looked at Mr C's bank statements and I can see that he has a history of making international payments and for making payments of a similar value to the disputed debit card transaction. So I can't agree that this should've flagged up as unusual to HSBC, when it is in line with his other spending. And while Mr C didn't have a history of spending on his credit card, I don't think this payment should've caused concern either. As above, it wasn't for a large sum and was to a genuine bitcoin seller. I understand that Mr C has lost money as the result of a scam, but I can't fairly say HSBC is responsible for this or that it does need to refund him what he's lost.

My final decision

For the reasons set out above, I don't uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 2 March 2022.

Amy Osborne
Ombudsman