

## **The complaint**

Mrs V complains that HSBC UK Bank Plc hasn't reimbursed her for funds she lost as the victim of an investment scam.

## **What happened**

In September 2017, Mrs V began investing with company T. She sent payments by bank transfer, credit card and debit card. This case is in relation to the debit card and bank transfers from two of her HSBC bank accounts. Mrs V sent the payments to other parties, but was provided these details by T and saw the funds appear in her trading account.

In October 2017, Mrs V wanted to withdraw her funds as she needed the money she'd invested for something else. She wasn't able to and this was when she realised she'd been the victim of a scam. She complained to HSBC and asked it to help her recover the funds, but no money was returned to her. She raised a complaint and when this wasn't upheld, came to our service. HSBC said that it had actioned her requests to send the funds and that it wasn't able to recover any money from the beneficiary bank in relation to the transfers.

Our investigator's final view was to partially uphold Mrs V's complaint. He said that HSBC ought to have intervened when Mrs V made her first online transfer towards this scam, as she sent over £13,000 to a new, international payee. And then he felt her last debit card payment should've also flagged, as there was a warning for this firm on the IOSCO website which sets out warnings on firms acting without regulations.

Mrs V accepted the assessment. HSBC disagreed and asked for a decision. It said that Mrs V didn't do enough research into T before she invested to satisfy herself it was safe to invest the amount she did. It didn't consider the payments she made unusual as it said she had done a number of international transfers before and had large amounts in and out of her account in the month before the first bank transfer. And it didn't consider it could've unravelled the scam with a phone call. In relation to the IOSCO warning, it said this was for another country and so it didn't agree it should've blocked payments to that firm off the back of a warnings from outside the UK.

## **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 agree with the conclusions reached by the investigator for these reasons:

- The first four debit card payments made by Mrs V are of relatively low value and fit in with the usual spending on her account. So I don't consider these ought to have prompted any intervention from HSBC or that they should be reimbursed by it.
- Based on Mrs V's statements and the screenshots from her trading account, she sent the first bank transfer before she made the fifth, final debit card payment. But both of these were made on the same day and I'm aware that card payments can be delayed on statements. So I've considered both orders of events, but my conclusions are the same.
- I've reviewed Mrs V's statements and I do agree the first bank transfer was out of character for her and HSBC should've intervened. Until August 2017, Mrs V's account doesn't show regular transfers or payments above c.£2,500. So in relation to the amount, a payment of c.£13,600 is unusual. I accept that Mrs V received two credits into her account of over £20,000 each in August 2017 and then transferred out £40,000. But I don't agree these mean the bank transfer wasn't unusual.
- The £40,000 payment was a transfer to another account – so not a debit to another party. From the statements we hold, Mrs V didn't routinely send large, international payments. And as this was new payee, I think this should've flagged to HSBC as both unusual and something that meant Mrs V could be at risk of some kind of fraud or scam. I appreciate HSBC wouldn't have known what was going on, but that is why I agree that it should've temporarily stopped this payment and contacted Mrs V to discuss it.
- If HSBC had, I think it's most likely Mrs V would've explained why she was making this payment. HSBC has said itself that there was no clear link between the person Mrs V was paying and who she was supposedly trading with – so I think this should've been a concern to the agent. And Mrs V has explained she was instructed by T on how to make payments and some manipulative tactics were used – so again concerning for HSBC. If it had called, I consider it would've established enough in this call to give Mrs V a scam warning and this would've prevented her from making further payments to T. If this transfer was before the final debit card payment, then this is therefore also included.
- I note that Mrs V made her second bank transfer to this scam from a different bank account she held with HSBC. But as this was made as part of this same scam and I think intervention by HSBC on the first bank transfer would've stopped her making further payments, the fact this came from another bank account doesn't change my decision, as this payment wouldn't have been made.
- If the final debit card payment was made before the transfer, then I'm still of the opinion this should be refunded. As our investigator set out to HSBC, there is an IOSCO warning for the firm Mrs V sent this money too. And this warning was in place for over five months before the card payment was made.
- Our service has made it clear that we consider banks should be engaging with the IOSCO and regulators warning lists and putting in place automated processes to stop payments to these firms, pending a conversation with the consumer. I consider the warning to that firm was in place long enough for HSBC to have acted on it and automatically blocked the final card payment. And then the above conversation should've taken place with Mrs V, unravelling the scam. So either way this payment and its associated fees are included in the reimbursement.

- Simply put, both payments Mrs V made on 22 September 2017 and all payments made from this date towards this scam should be reimbursed, as HSBC should've intervened on the first attempted payment made to the scam on this day.
- HSBC has suggested that Mrs V didn't do enough to research the investments or protect herself against this scam and so she is liable for her losses. But I haven't seen anything that suggests additional research by her could've unravelled the scam at the time she was first involved in it. And I find her testimony plausible that she understood she was paying T, meaning she wouldn't have found the warning above at the time she was making payments. So I don't consider she does need to be held responsible in this case.

### **Putting things right**

I require HSBC UK Bank Plc to:

- Reimburse £41,741.27 representing the losses set out above and also refund any associated transaction fees. As the payments were made from two accounts the reimbursements should be made to the applicable accounts; and
- Pay 8% simple interest on the refunds from the date of the transactions to the date of settlement, less any lawfully deductible tax.

### **My final decision**

For the reasons set out above, I partially uphold Mrs V's complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V to accept or reject my decision before 12 May 2022.

Amy Osborne  
**Ombudsman**