

The complaint

Miss C complains that Santander UK Plc (Santander) didn't do enough to make sure she wasn't being scammed when she made payments intended to be investments. She also thinks Santander should have done more to recover her money.

What happened

The details of this complaint are well known to both parties, so I won't repeat them in full here. The facts aren't in dispute, so I'll provide a summary of what happened and focus on giving the reasons for my decision.

Miss C invested around £8,000 with two companies in February and March 2021. She contacted Santander, as she believed she'd been the victim of an elaborate scam and asked it to raise a chargeback.

Santander said it didn't have grounds to apply for a chargeback, as set out by the card scheme, as the payments had been made to a trading/investment company.

Miss C received credits back from one of the companies of around £3,000. And it agreed, several months later, to refund a further £2,000. But Miss C feels Santander should refund the remaining losses as it didn't ask any questions at the time of the payments and should have done more to protect her.

Our investigator wasn't persuaded the two companies weren't legitimate based on her research. She also didn't think Santander had acted unreasonably by not intervening with the payments and not pursuing a chargeback. But Miss C disagreed, so the 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.

Having done so, I agree with the conclusions reached by the investigator for these reasons:

- I have to consider, so far as is reasonably possible, whether Miss C has been scammed, rather than simply losing money to a high-risk investment. Banks (and other payment service providers) only have a duty to protect customers from the risk of financial loss due to fraud. This duty to intervene isn't triggered where payments are made to a legitimate investment. Both firms had temporary permissions from the Financial Conduct Authority to carry out investment activities in the UK at the time. And it would be extremely rare for scam companies to provide such high credits or refunds, particularly once it's clear that the 'investor' won't be making any further payments. So, I can't fairly conclude these firms were operating fraudulently or that Miss C was the victim of a scam. And I don't think Santander could reasonably have been expected to intervene here.

- I also conclude that it was reasonable for Santander not to proceed with the chargeback claim. For this card scheme, chargebacks are available for transactions in which a value is purchased for gambling, investment, or similar purposes. But there are no chargeback rights related to the use of these chips or value, unspent chips, or withdrawal of such value, or any winnings, gains or losses resulting from the use of such chips or value. Here, Miss C couldn't see the funds in her trading accounts and the matter related to the account not producing the expected profits. So, there was no reasonable prospect of success with a chargeback claim. I'm persuaded Santander acted reasonably here.

In summary, I'm not persuaded this was a scam. And I don't think Santander acted in error by not pursuing the chargeback further.

My final decision

For the reasons given above, I don't uphold this complaint against Santander UK Plc .

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 5 September 2022.

Melanie Roberts
Ombudsman