

The complaint

Company C complains that HSBC UK Bank Plc have unfairly refused to refund over €32,649 it lost as a result of an invoice intercept scam.

What happened

C imports goods to the UK and was in an ongoing email exchange with a seller overseas. A proforma invoice was issued that included payment instructions, which C used to send a payment of €32,649 to the seller. However, it subsequently came to light that a scammer had managed to intercept C's email exchange and had sent payment instructions from a very similar looking email address to that of the seller, meaning the money never reached the intended recipient and was instead sent to the scammer.

HSBC refused to refund the payment, as they said that C had authorised it. C complained as it thought HSBC could have done more to have prevented the money being lost to a scam.

Our investigator upheld the complaint. In light of the amount being paid, she thought HSBC ought to have blocked the payment pending further enquiry, which she thought would have uncovered the scam if C had been asked to check the payment details with the seller before sending the money. HSBC disagreed, so the matter has been escalated to me to determine.

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 the following reasons:

- It isn't in dispute that C authorised the disputed payment made to the scammer from its HSBC account. The payment was requested by it using its legitimate security credentials provided by HSBC, and the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made as instructed.
- However, HSBC is aware of our approach of expecting them to have been monitoring accounts to counter various risks, have systems in place to identify unusual transactions or other indicators that their customer is at risk of fraud; and in some situations, make additional checks before processing payments or to decline them altogether to protect customers from possible financial harm from fraud or scams.
- I have looked at the operation of C's account over the 12 months prior to the disputed payment. And the transaction made on 11 December 2020 was significantly higher than any other payment that had been made from the account in the previous 12 months, with the largest payment being for €6,834.70 on 24 December 2019. Therefore, a payment of €32,649 represented an increase of over 370% in spending from the next largest payment made from the account. It was also being made to a new payee, so I'm satisfied there were enough 'triggers' here to have alerted a

responsible regulated bank such as HSBC that C's account was being subjected to unusual and uncharacteristic activity

- HSBC ought reasonably to have been aware of the common tactics used in invoice intercept scams and could have asked C whether it had confirmed the payment details with the seller over the phone to confirm they were genuine. The bank could have also asked C to check the email address containing the payment details to make sure it matched that of the seller, whereupon closer inspection they would have discovered that it didn't. Upon discovering this, I'm satisfied C would have likely confirmed the payment details directly with the seller, where it would have discovered that the invoice had been intercepted by a scammer, thereby preventing the loss. I'm therefore satisfied that a relevant and meaningful warning from HSBC would have likely exposed the scam and prevented C's loss.
- I've also considered whether C should be held partly responsible for its loss, but I don't consider it should. C says that it receives around one to five invoices per week, so it isn't unusual for it to receive invoices and payment details electronically. And given how closely the scammer's email address matched that of the seller, I don't think many people would have noticed it was from a different sender. This was a clever and sophisticated scam, and I'm not persuaded C can be said to have acted negligently by believing the payment details came from the genuine seller it was in contact with. So, I will not be making a reduction in C's settlement as a result.
- As I am satisfied HSBC can fairly and reasonably be held responsible for C's loss (given they ought to have intervened and prevented it), I don't consider it necessary to explore whether the bank did enough to try and recover the funds after the fraud was reported. In terms of the service C received, I appreciate it considers HSBC were slow to react. But as I will be directing the bank to refund the total amount lost, I'm not persuaded that HSBC's actions have caused such inconvenience to the company that it would warrant an additional award of compensation in these circumstances.

My final decision

For the reasons given above, I uphold this complaint and direct HSBC UK Bank Plc to reimburse C the money it lost to the scam (along with any associated fees and charges if applicable). I also require HSBC to add 8% simple interest per year to that sum from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 19 December 2022.

Jack Ferris
Ombudsman