

## The complaint

Mrs F has complained that HSBC UK Bank Plc (HSBC) has refused to refund her money she lost as the result of a scam.

## What happened

Mrs F was looking to invest money and found an advertisement online for Investpoint.pro. They claimed to be specialists in crypto trading and as this was of interest to Mrs F, she completed a contact form. Investpoint.pro contacted Mrs F and she was convinced to transfer funds into Binance and then once there, the funds were used to buy crypto. The crypto was then transferred to Investpoint.pro. The investments that were made appeared legitimate. Mrs F was then convinced by Investpoint.pro that investing more would maximise her potential profit.

Mrs F made the following debit card payments totalling £34,654.48 to Binance from her HSBC account as set out below. These funds were then sent on to Investpoint.pro

Transaction Number	Date	Merchant	Amount	Running Total
1	14/06/2022	Binance	£600	£600
2	21/06/2022	Binance	£2,208.41	£2,808.41
3	21/06/2022	Binance	£368.07	£3,176.48
4	21/06/2022	Binance	£4,078	£7,254.48
5	21/06/2022	Binance	£500	£7,754.48
6	21/06/2022	Binance	£400	£8,154.48
7	23/06/2022	Binance	£5,000	£13,154.48
8	27/06/2022	Binance	£5,000	£18,154.48
9	28/06/2022	Binance	£5,000	£23,154.48
10	28/06/2022	Binance	£5,000	£28,154.48
11	28/06/2022	Binance	£5,000	£33,154.48
12	28/06/2022	Binance	£1,500.	£34,654.48

Mrs F later attempted to withdraw her funds from Investpoint.pro but she was unable to do so. At this point Mrs F realised that she had been scammed.

I issued a provisional decision on 4 August 2023 in which I said the following;

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*The circumstances of this complaint are not in dispute and the evidence provided by both Mrs F and HSBC set out what happened. What is in dispute is whether HSBC should refund any of the money Mrs F lost because of the scam.*

*Mrs F has accepted she authorised the payments she made to Investpoint.pro, so the starting point here is that Mrs F is responsible for making the payments. However, banks and other Payment Services Providers (PSPs) do have a duty to protect against the risk of financial loss due to fraud and/or to undertake due diligence on large transactions to guard against money laundering.*

*In relation to the first three payments, I think that these payments were not so unusual for HSBC to intervene given their size. I say this because Mrs F had in the past made transactions of a similar size.*

*That said, the fourth transaction I believe should have been considered unusual. It was a larger amount and prior to the first three payments, Mrs F had not transferred money to crypto exchanges before. I therefore think that her making a fourth transaction in a relatively short time to a new international payee should really have prompted HSBC to intervene.*

*At this stage, HSBC should have stepped in and asked Mrs F in depth questions to find out what the payments related to. Had HSBC stepped in at this point, I think its likely Mrs F would have explained the reason she was suddenly making a number of large payments from her card within a relatively short space of time.*

*HSBC would likely have discovered that Mrs F was allowing third-party access to her computer and that the funds sent to Binance were intended to be converted to crypto and forwarded to a different trading firm. This has all the hallmarks of a typical investment scam. I'm satisfied that a warning to Mrs F from her trusted bank would have probably alerted her to the common issues arising in relation to cryptocurrency scams, which in turn would have revealed the truth behind the Investpoint.pro's representations. This would have probably stopped Mrs F in her tracks. So, but for HSBC's failure to act on clear triggers of potential fraud or financial harm, Mrs F probably wouldn't have continued to make the additional payments.*

*Despite regulatory safeguards, there is a general principle that consumers must still take responsibility for their actions. In this case, I do not think that Mrs F was to blame for what happened and I haven't seen anything to suggest that she had foreseen the risk of this sort of harm occurring, or indeed any harm. I do not think Mrs F could have foreseen the risk that the company she was dealing with were in fact scammers and the trading account she was viewing was likely to be a simulation. I also can't see there were any credible warnings in place about the Investpoint.pro at the time Mrs F started making the payments. So, in the circumstances, I do not think it would be fair to reduce compensation on the basis that Mrs F should share blame for what happened.*

*I have considered whether HSBC could have recovered the first three payments. As these payments were made using her debit card, the only way to recover the funds would be via the chargeback process. However, as these transactions were to purchase crypto for Mrs F in the first instance and Mrs F did receive the crypto (before she then transferred it on), I don't think a chargeback would have been successful.*

*In relation to the interest award the investigator has recommended that account interest rate be added to the award. The funds in question though were not going to remain in the account and instead were to be used for home improvements. Therefore, I think it is appropriate to award interest 8% simple, per year to recognise Mrs F being deprived of this money."*

Mrs F agreed with the provisional decision. HSBC did not and provided a phone call between Mrs F and HSBC which took place on 28 June 2022. It also made a number of further points which included:

- Had HSBC intervened earlier, it believes that Mrs F would likely have carried on with the transactions regardless.
- During the phone call on 28 June 2022, Mrs F confirmed that she was aware of the risks of trading crypto. Mrs F said she was investing on advice from her brother, and so likely would've continued investing trusting the information her brother had given her.
- Mrs F was responsible for her loss because she had not completed due diligence prior to investing.

### **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.

HSBC has argued that had an intervention from HSBC occurred earlier than it did, it would not have stopped Mrs F from carrying out the transactions in question. It argues that this is demonstrated by the way she answered questions during the call of 28 June 2022. I have listened to the call in question and I don't think the questions from HSBC went far enough. The questions asked were not probing and there were no questions about the end destination of the funds - such as were they being forwarded on or whether she had installed remote access software. Had such questions been asked I am satisfied that the scam would have been uncovered, rather than it appearing as though the transaction was so that Mrs F could purchase cryptocurrency without the involvement of any third parties.

Mrs F said in this call that she had received advice from her brother. HSBC have argued that it believes that due to this, Mrs F would have carried on with her transactions regardless of any intervention from HSBC. But I don't think that this was the case. From my understanding, Mrs F's brother had not advised Mrs F in relation to the investment in Investpoint.pro - but only about investing in crypto in general. So I'm not persuaded that a warning saying that Mrs F was likely being scammed from Mrs F's trusted bank would have been ignored.

I should also say that I think a meaningful intervention call from HSBC with probing questions being asked early on in the scam would likely have carried more weight than a call carried out after a lot of transactions – by which point Mrs F would've been reluctant to accept that she was in fact being scammed.

So overall I am satisfied, albeit on balance, that a more probing intervention call would have stopped Mrs F from continuing with the transactions, had HSBC done this around transaction four.

In relation to a deduction for contributory negligence. Mrs F has provided notes that she took at the time of the scam. This to me shows that she did do some research in Bitcoin and was given convincing answers to these questions. There were no credible warnings online at the time about Investpoint.pro. I do not think Miss F could have realistically have been aware that the company she was dealing with was a scam. Nor do I think, with the information that Mrs F had at the time, that she ought to have known that the trading account she was being presented with was likely to be a simulation. So taking everything into consideration, I do not think it would be fair to reduce compensation on the basis that she should share blame for what happened.

So I am upholding this complaint in part.

### **Putting things right**

HSBC UK Bank Plc, trading as HSBC Bank should do the following:

- 1) Refund transactions 4 to 12; and
- 2) Refund any fees associated to those transaction; and
- 3) Pay 8% simple interest per year on the above amounts, calculated from the date of the transactions to the date of settlement (less any tax lawfully deductible).

### **My final decision**

For the reasons given above, my decision is that I uphold this complaint in part and require HSBC UK Bank Plc, trading as HSBC Bank, to put matters right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 20 October 2023.

Charlie Newton  
**Ombudsman**