

The complaint

Mrs B and Miss B complain that HSBC UK Bank Plc (HSBC) is refusing to refund them the amount they lost as the result of a scam.

Mrs B and Miss B are being represented by a third party. To keep things simple, I will refer to Mrs B and Miss B throughout my decision.

What happened

The background of this complaint is well known to all parties, so I won't repeat what happened in detail.

In summary, Mrs B had seen an advertisement on Facebook for an investment company called Terra-Markets (X) endorsed by well-known celebrities and showed Miss B. Miss B carried out some online research into X and after discussing the opportunity Miss B clicked on the advertisement and completed an online data capture form with her personal information.

Miss B then received a call from X who explained the investment process to her and that she could start investing with as little as £250. Miss B agreed to make an initial £250 payment into the investment and made this payment via her credit card.

X gave Miss B the option of trading on her own or having X trade for her. Miss B asked X to trade on her behalf. Miss B was required to download the screen sharing application AnyDesk to help her setup the investment.

Guided by X Miss B opened accounts with Revolut, Binance and Cryptopay. Miss B already had an account with Wise. When investing the funds would move from the HSBC account to the Revolut/Wise account, then to Binance and finally to X.

X built confidence with Miss B persuading her to make further payments into the investment. Miss B was promised higher profits and more lucrative returns.

X then explained an investment event that was taking place in Dubai in October 2022. X encouraged Miss B to book flights to attend the event and it would refund the value of the tickets. Miss B said X refunded the cost immediately as promised giving Miss B more confidence the investment was legitimate.

Miss B continued to make further payments on the basis she would become a "VIP club member" and be able to enter investments with even higher returns.

X promised a withdrawal to Miss B but said she would have to make further payments in relation to fees and taxes first. X was very persuasive, and Miss B agreed to make the payments as instructed.

Having made various payments X explained to Miss B that a payment she had made in relation to capital gains tax had incorrectly been credited to the trading platform rather than

being paid in relation to tax. Miss B would have to make the payment of £45,000 again but would receive a refund of the previous payment she had made.

Miss B started to worry about how she was going to manage making an additional payment of this size and realised she had fallen victim to a scam.

Miss B made the following payments in relation to the scam via the HSBC account:

<u>Date</u>	<u>Payee</u>	<u>Payment Method</u>	<u>Amount</u>
29 March 2022	Wise	Transfer	£5,000
11 April 2022	Revolut	Transfer	£5,000 (Payment returned)
11 April 2022	Revolut	Transfer	£5,000 (Payment returned)
12 April 2022	Wise	Transfer	£100
12 April 2022	Wise	Transfer	£4,900
19 April 2022	Wise	Transfer	£10,000
28 April 2022	Wise	Transfer	£10,000
04 May 2022	Wise	Transfer	£19,500
04 May 2022	Wise	Transfer	£5,500
06 May 2022	Wise	Transfer	£25,000
09 May 2022	Wise	Transfer	£19,750
11 May 2022	Clear Junction	Transfer	£20
06 June 2022	Wise	Transfer	£24,500
07 June 2022	Wise	Transfer	£24,500
08 June 2022	Wise	Transfer	£8,000
13 June 2022	Wise	Transfer	£23,450
15 June 2022	Wise	Transfer	£24,000
16 June 2022	Wise	Transfer	£3,000
20 February 2022	Wise	Transfer	£25,000
21 March 2022	Wise	Transfer	£20,000
21 June 2022	Clear Junction	Transfer	£20

Our Investigator considered Mrs B and Miss B's complaint but didn't think it should be upheld. Mrs B and Miss B disagreed, so this 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.

It has not been disputed that Mrs B and Miss B have fallen victim to a cruel scam. The evidence provided by both Mrs B and Miss B, and HSBC sets out what happened. What is in dispute is whether HSBC should refund the money lost due to the scam.

Recovering the payments Miss B made

Miss B made payments into the scam via the method of transfer. When payments are made by transfer HSBC has limited options available to it to seek recovery.

HSBC could ask the receiving payee to refund any funds that remained in the receiving account. However, this would not be successful as Miss B made the transfers into an account in her own name. So, if any funds remained Miss B would already have access to them.

Considering the circumstances of this scam I don't think HSBC had any reasonable options

available to it to recover the payments made in relation to the scam.

Should HSBC have reasonably prevented the payments Miss B made?

It has been accepted that Miss B authorised the payments that were made from the HSBC account, albeit on X's instruction. So, the starting point here is that Miss B is responsible.

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.

The question here is whether HSBC should have been aware of the scam and stepped into question Miss B about the payments she was making. And if it had questioned Miss B, would it have been able to prevent the scam taking place.

Miss B sent high value payments from the HSBC account, so I am not surprised to see that HSBC did step in and discuss the payments with her. HSBC has provided recordings of two separate calls that took place between Miss B and HSBC on 11 April 2022 when Miss B was having issues with payments being stopped.

During these calls Miss B confirmed that the reason she was making the payments was because she would be using her account at Revolut in the future, and it was easier for her to use. She also confirmed she had opened the account on a friend's recommendation. This wasn't true as Miss B had opened the account on X's request and was moving the funds solely to invest with X.

During the calls Miss B also confirmed that no one had asked or forced her to open an account, a third-party had not asked her to make any payments, and no one had told her what to say to the bank if it asked questions about the payments she was making. Again, all the answers Miss B gave were incorrect.

The questions HSBC asked Miss B are designed to help it uncover scams taking place at the time. Giving incorrect information like Miss B did makes it very difficult for HSBC to uncover a scam and I am not surprised HSBC allowed payments to be processed based on the information Miss B provided.

HSBC could have stepped in when Miss B attempted other payments in relation to the scam. But Miss B has told us she was coached by X on what to say when asked about the payments, and it's clear Miss B trusted X and was willing to give dishonest answers to make sure the payments were processed.

With the above in mind, I don't have enough to say Miss B would have given honest answers if HSBC had stopped further payments and spoken to her about them. So, I don't think HSBC missed an opportunity to prevent the scam and it is not responsible for Mrs B's and Miss B's loss.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Miss B to accept or reject my decision before 11 March 2024.

Terry Woodham

Ombudsman