

## The complaint

Mr F complains that HSBC UK Bank Plc won't refund the money he lost as a result of two investment scams.

Mr F is represented by a third-party, but for ease of reference I'll refer only to Mr F.

## What happened

The circumstances that led to this complaint are well known to both parties, so I won't repeat them in detail, but in summary:

Mr F was introduced to a company promoting two investments, through a friend of a friend. He says he carried out some research of his own and saw some positive reviews. He says he was told he could earn returns of 2% per day on one investment and could double his money on the other investment. He made several payments over a period of around 18 months, as follows:

Date	Type of transaction	Amount
23 September 2021	Card payment to Mr F's cryptocurrency account	£770
3 January 2022	Card payment to Mr F's cryptocurrency account	£590
28 February 2022	Card payment to Mr F's cryptocurrency account	£400
18 March 2022	Faster payment to a digital wallet in Mr F's name	£7,000
26 March 2022	Faster payment to a digital wallet in Mr F's name	£554.36

**Total £9,314.36**

When Mr F attempted to withdraw his money, he was unable to and eventually realised he had been the victim of investment scams.

He says HSBC is responsible for refunding him for these transactions, under the Contingent Reimbursement Model Code (CRM code), unless he has been grossly negligent or if he ignored effective risk warnings.

HSBC did not refund Mr F. It said it provided a tailored warning in relation to the £7,000 payment, which it considered proportionate. It said the remaining transactions were not suspicious, were made to Mr F's own accounts with other providers and that the CRM code does not apply to these transactions.

Our investigator did not uphold the complaint. While he thought the evidence showed that these investments were scams, he considered the tailored warning for the £7,000 transaction was proportionate and did not consider there was anything unusual about the remaining transactions that would have alerted HSBC to the possibility of fraud.

He said the £7,000 payment, to a digital wallet in Mr F's own name, was made to an existing payee. He was asked to select a reason for the payment and chose 'making a large purchase' rather than 'making investments', which was an option, and a tailored warning was provided relating to making large purchases online. The investigator thought this was appropriate in the circumstances. He noted that Mr F's digital wallet could be used to make large purchases, so there was little reason for HSBC to consider it suspicious. A further, small payment was made to the wallet eight days later, which didn't appear suspicious in light of previous payments to the wallet of various amounts.

He thought HSBC was unlikely to have been able to recover any money for Mr F as the card payments had been made to a legitimate merchant. And so he thought chargebacks were unlikely to have been successful. HSBC contacted the digital wallet provider but didn't receive a response.

### **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.

There is no dispute that Mr F authorised the payments, even though he was tricked into doing so and was the victim of scams. I appreciate he didn't intend his money to go to scammers. But under the Payment Services Regulations 2017, he is liable for the loss in the first instances. But the matter doesn't end there.

The CRM code does not apply to payments made by debit card, nor to payments sent between accounts belonging to the same customer, but taking into account the law, regulatory rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider HSBC should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing or terrorism and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

I don't consider there was anything particularly out of the ordinary about Mr F's card payments, made weeks apart, for different, relatively low amounts. They were payments to a cryptocurrency account, but investment transactions don't appear out of character for Mr F's account and I can see a number of transactions to various investment brokers in Mr F's bank account statements. On that basis, I don't think HSBC was at fault for not identifying them as possibly fraudulent. I agree that any attempt at chargeback, so long after the transactions took place, to a legitimate merchant, are unlikely to have been successful.

In terms of the payments to Mr F's digital wallet, the £7,000 payment was large, but it was paid to an existing payee. The payment did not form part of a pattern of suspicious transactions, but instead is one of a small number of payments to this payee, for varying amounts, over a period of around 10 months. HSBC asked for the purpose of the transaction

and was told it was to make a large purchase, and so HSBC sent appropriate warnings about making large online purchases. I'm not persuaded the £7,000 transaction, or the subsequent, smaller payment, were sufficiently unusual for HSBC to have intervened further. I consider the tailored warning provided was proportionate, based on the payment purpose selected by Mr F.

#### Recovery

HSBC attempted to contact Mr F's digital wallet provider, but his money had already been move on, so there was no prospect of a successful recovery of Mr F's money.

Overall, I consider there was little more HSBC could have realistically done.

#### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 28 October 2024.

Greg Barham  
**Ombudsman**