

## The complaint

Mr D complains that Santander UK Plc (Santander) won't refund the money he lost in an investment scam.

Mr D is being represented by a third-party representative, but I'll refer to Mr D only, for ease of reading.

## 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 D says he invested in a company he'd been recommended after communicating with someone on a social media platform. He says he was told he could gain returns of 10% per week. He says he viewed the company's website, which was professional and spoke to family members who believed the investment was genuine. In order to invest, he made a series of transactions from his Santander account to a legitimate cryptocurrency wallet he held with another business, and from there made investments in the scam company. The transactions were as follows:

date	to	amount
3/08/2023	Mr D's cryptocurrency account	£1,000
10/08/2023	Mr D's cryptocurrency account	£1,000
4/09/2023	Mr D's cryptocurrency account	£1,000
11/09/2023	Mr D's cryptocurrency account	£1,000
14/09/2023	Mr D's cryptocurrency account	£1,000
14/09/2023	Mr D's cryptocurrency account	£1,000
18/09/2023	Mr D's cryptocurrency account	£2,000
21/09/2023	Mr D's cryptocurrency account	£2,000
23/09/2023	Mr D's cryptocurrency account	£3,000

**Total £13,000**

Mr D says his account with the scam company showed good returns, but he became suspicious when he was told he would receive a bonus if he invested more but was later told his account had been frozen because he'd not invested enough.

Mr D reported the fraud to Santander but it wouldn't refund the transactions. He complained to Santander and said he thought it should've intervened on 18 September 2023. He says this transaction was out of character and he remembers being called by Santander on this occasion. He says it failed to ask him probing questions, or scrutinise his answers. He says if it had done, it would've discovered the transactions were to an investment Mr D had found on social media and that his money was being sent to an unregulated investment through a cryptocurrency exchange.

Santander said it blocked a transaction to Mr D's cryptocurrency wallet on 30 August 2023. As a result, Mr D called Santander and was asked a series of questions. Santander said it

had blocked the transaction because it couldn't confirm the identity of the beneficiary account at the cryptocurrency provider, as the provider wasn't registered for the confirmation of payee service (COP). Santander said it had asked appropriate questions and Mr D had transferred funds to his own cryptocurrency account and made transactions that turned out to be scams, from that account. It didn't consider it was responsible for Mr D's loss.

Our investigator didn't uphold Mr D's complaint. She thought Santander's intervention was reasonable and proportionate, it asked appropriate questions about the transactions and it had provided sufficient warnings. She didn't think Santander was at fault and didn't uphold the complaint.

### **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 D authorised the payments. 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 instance. But the matter doesn't end there.

In this case, the Contingent Reimbursement Model (CRM) code doesn't apply because the transactions were between two accounts held by Mr D. However, 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 Santander 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 make 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.

Santander did intervene, on 30 August 2023, by blocking a transaction to the cryptocurrency provider. The resulting call, on 31 August 2023, is key to this complaint, in my view.

I agree with Mr D that the focus of the call was on asking questions about the legitimacy of the cryptocurrency provider he was transferring money to, rather than about the ultimate destination for his money. He was asked whether he was making the payment to a legitimate account, whether anyone had asked him to lie, amongst other things.

But Santander did say Mr D shouldn't go ahead if he'd found the investment through social media and it asked whether he'd found this investment through social media sites. He answered 'No'. Santander said this could be a scam if he'd been promised returns that seemed too good to be true. It warned that many cryptocurrency investments weren't regulated by the FCA, and advised him to continue cautiously. It added that if he didn't fully understand what he was investing in, he shouldn't continue.

Of course, Mr D hadn't found the *cryptocurrency provider* he was trying to send the money to via social media, and *it* hadn't promised him returns that were too good to be true. But he knew the reason he was transferring the funds to his cryptocurrency account was to invest in an investment he had heard about through social media and where the promised returns – 10% per week - seemed too good to be true. On that basis, I consider he was warned about the possibility of this ultimately being a scam. He was warned about not investing in unregulated investments, or investments he'd been introduced to via social media and where the promised returns were too good to be true.

Overall, I consider Santander's intervention was reasonable and proportionate. I consider sufficient risk warnings were given that ought to have led him not to make further payments towards this investment. I don't consider Santander was responsible for Mr D's loss.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 6 November 2024.

Greg Barham  
**Ombudsman**