

The complaint

Mr E has complained that Santander UK Plc (Santander) mis-sold him an investment. In particular, he says that he wasn't aware of the level of risk the fund posed.

What happened

Following a meeting with a Santander adviser in August 2010, Mr E invested a total of £20,000 into a corporate bond fund. £5,100 of this was inside an individual savings account (ISA) wrapper.

Whilst the investment remains in place, Santander say Mr E has been taking a regular income from it since inception, but has made no withdrawals.

In August 2023, Mr E complained to Santander. Predominantly unhappy with the performance of the fund, he said it had been mis-sold to him. Mr E stated that he was told his capital was protected and that he would earn more than from any of the savings' accounts.

Santander responded to Mr E. Initially they said he had brought his complaint out of time, before agreeing to consider the merits. They said they had no point-of-sale documentation but that Mr E would have been made aware of the risks the fund posed. They also said the fund's risk profile would have matched his.

Mr E remained unhappy and brought his complaint to this service for an independent review. Our investigator looked into it. She said that she wasn't sure the risk to capital that the fund posed had been explained or that the fund matched Mr E's risk profile and circumstances at the time. So, she recommended that the complaint be upheld.

Santander didn't agree. They raised a number of points in response including that the KFD and product brochure at the time would have explained the risks and that Mr E has never made a withdrawal from the fund. Which they said suggested he was happy with it. Whilst they acknowledged recent falls in the value of the fund, they said Mr E would have known that was a possibility.

As no agreement was reached, the case 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.

Having done so, I agree with the investigator, that on a balance of probabilities, I believe it was more likely than not that the investment sold to Mr E was not suitable. Let me explain why.

Understandably, due to the amount of time that has passed since the advice was given in 2010, Santander haven't been able to provide me with much point-of-sale documentation. I have therefore had to base my decision on Mr E's testimony and the fund key features document (KFD) from the time, which I have been provided with.

Mr E has said that he wasn't aware of the risk that the fund posed or that his invested amount wasn't protected. However, I can't agree with this or uphold the complaint based on this. Whilst Mr E's testimony has been consistent that he wasn't aware of this risk and we don't have anything to show what he was told by the adviser at the point of sale, we do have the KFD. This is for the corporate bond fund he invested in and from the time of sale, it states, *"your investment is not without risk. Please remember that this is a stock market linked investment. The value of your investment and any income from it can go down as well as up, and is not guaranteed at any time"*. I think it's reasonable to have expected Mr E to have read this paperwork and I think this explains clearly that his capital wasn't protected.

I also note Santander's point that Mr E has kept the investment in place without any withdrawals further to his regular income he was receiving. Suggesting there wasn't any issues with the affordability of the investment. However, considering Mr E's circumstances from the point of sale, I don't believe Mr E should have been advised to make this investment.

He has told us that at the time of the investment he had a low salary of about £200 a week and made the investment to increase his income. He told us that the invested amount of £20,000 was nearly all his savings and that he wasn't in a position to lose any of this money. He also said he had no other prior investment experience.

Based on what I know about Mr E's circumstances from the point of sale, I don't think the recommendation was a suitable one. Whilst I note Santander classified the fund as lower risk, I still believe it carried more risk than Mr E was willing or able to take. He didn't have any capacity for loss and wouldn't have been able to recover any losses this investment brought. Further, the recommendation was to only invest the full £20,000 (the vast majority of Mr E's savings) into one fund. Meaning there was no diversification and no spread of risk of loss for Mr E.

In summary, whilst I can't hold Santander responsible for Mr E not knowing of the risk to his investment (as it was contained in the KFD), I do not think they gave him a suitable recommendation. Mr E didn't have sufficient surplus income or alternative savings to recover any potential losses. Albeit a 'lower risk' fund, the risk posed by this investment and investing in only one fund, was more than Mr E was willing or able to take.

Putting things right

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr E as close to the position he would probably now be in if he had not been given unsuitable advice.

I take the view that Mr E would have invested differently. It is not possible to say precisely what he would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr E's circumstances and objectives when he invested.

What should you do?

To compensate Mr E fairly you should:

- Compare the performance of Mr E's investment with that of the benchmark shown below and pay the difference between the fair value and the actual value of the investment. If the actual value is greater than the fair value, no compensation is payable.
- You should also add any interest set out below to the compensation payable.
- Provide the details of the calculation to Mr E in a clear, simple format.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Sterling Corporate Bond fund	Still exists and liquid	Average rate from fixed rate bonds	Date of investment	Date of settlement	Not applicable

Actual value

This means the actual amount payable from the investment at the end date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the fair value when using the fixed rate bonds as the benchmark, you should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Apply those rates to the investment on an annually compounded basis.

Any withdrawal from the Sterling Corporate Bond fund should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if you total all those payments and deduct that figure at the end to determine the fair value instead of deducting periodically.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Mr E wanted to achieve a reasonable return without risking any of his capital.
- The average rate for the fixed rate bonds would be a fair measure given Mr E's circumstances and objectives. It does not mean that Mr E would have invested only in a fixed rate bond. It is the sort of investment return a consumer could have obtained with little risk to their capital.

The information about the average rate can be found on the Bank of England's website by searching for 'quoted household interest rates' and then clicking on the related link to their

database, or by entering this address www.bankofengland.co.uk/boeapps/database, clicking on: Interest & exchange rates data / Quoted household interest rates / Deposit rates - Fixed rate bonds / 1 year (IUMWTFA) and then exporting the source data.

There is guidance on how to carry out calculations available on our website, which can be found by following this link: <https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-investment-complaints>. Alternatively, just type 'compensation for investment complaints' into the search bar on our website: www.financial-ombudsman.org.uk.

My final decision

My final decision, for the reasons set out above, is that I uphold this complaint and ask Santander UK Plc to put things right as set out above.

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

Yoni Smith
Ombudsman