

The complaint

Mr F complains that Santander UK Plc didn't do enough to protect him when he fell victim to an investment recovery scam.

What happened

In late 2017, Mr F was cold called by a merchant purporting to offer binary options investments. He understood this merchant was regulated and he could make a large sum investing with it, so he began sending funds on his Santander credit card between December 2017 and February 2018. In July 2018, the investment platform disappeared, and Mr F understood they had gone bankrupt. He believed all his funds were lost.

In September 2018, Mr F researched ways to recover the lost funds online. He was then cold called by someone purporting to work for a claims management company who said they could help him get his money back. Mr F made fifteen payments on his Santander card and five payments through his Santander current account from October 2018 until June 2020 to cryptocurrency firms for this recovery. He discovered this was also a scam in May 2020.

Mr F complained to Santander in May 2023 about being the victim of the original investment scam and this recovery scam. Santander didn't uphold his recovery scam complaint, it said there was no reason for it to suspect the payments at the time. So Mr F came to our service.

Our investigator didn't uphold Mr F's complaint. He didn't think any of the payments were suspicious so that Santander should have contacted Mr F about them.

Mr F maintained that he only sent these payments as a result of the original scam, so these shouldn't be considered separately to it. And he considered Santander should have intervened on the payments, and had it done so effectively, it would've unravelled the scam. I issued a provisional decision on this case in October 2024. My findings were as follows:

Having taken into account longstanding regulatory expectations and requirements, and what I consider to be good industry practice, Santander ought to have been on the look-out for the possibility of fraud and made additional checks before processing payments in some circumstances.

I have reviewed the payments Mr F has told us he made from his credit card to this scam. Having considered when they were made, their value and who they were made to, I'm not persuaded Santander ought to have found any of the payments suspicious, such that it ought to have made additional enquires of Mr F before processing them.

I accept the payments were to cryptocurrency providers, but that doesn't mean they should automatically be treated as suspicious, particularly when there are no other concerning factors about the payments, and they were made from 2018 to 2020. Mr F has recognised himself that they are not large sums and while they were to new payees, the payments are spread out over weeks and months. So based on the

information I currently hold, I don't consider Santander missed an opportunity to intervene here.

In relation to the current account payments, I can see that Santander did have some concerns about the 2018 transfers at the time. It's notes from October and November 2018 show these payments did flag up on its systems. And the notes detail that an investigation then took place into them and on 12 November 2018 say Mr F has been the victim of a scam. I don't have any other details for these payments at this time, but the notes indicate Mr F was aware of the outcome of the investigation. I haven't seen any evidence from either party to suggest a complaint was raised about this at that time.

I can see Mr F then stops making bank transfers. And he makes the next payment to this scam via his credit card, to a different cryptocurrency merchant, a month later. While I don't have full details of what was discussed in 2018, it is clear it didn't stop Mr F going ahead, despite the notes saying he was told it was a scam. I can also see this is the same pattern that happens again twice to Mr F. On a linked case, I've seen Mr F had been spending on his current account and is told he's a scam victim on that, so he makes a credit card payment instead. And on this case, in May 2020 Mr F reports to his other bank, Santander and the Police about this scam and at that time he's using his Santander credit card, but he then sends the final disputed payment in this case via his debit card.

The information I hold doesn't suggest Mr F would've headed a warning from Santander even if it had taken things further. By the time Mr F is involved in the recovery scam, he seems to be so caught up and invested in the scam that he sends money despite scam warnings – and continues to send funds after he has reported the scam to his banks and the Police. I accept this is a very difficult situation and the sheer desperation this shows, but that doesn't mean I can fairly hold Santander liable for the losses here.

I have thought about the arguments Mr F has made in relation to this recovery scam and how he only fell victim to it because of the original scam. But I am satisfied that our investigator correctly considered the two scams separately and that there is a break in the chain of causation.

Mr F has told us he did research to try and find a way to recover his funds and after this he was contacted by the second recovery firm. Mr F didn't make any payments to the first recovery firm he dealt with as part of this case. I haven't seen anything that links the second firm to the original scam merchant and Mr F understood he was dealing with an entirely separate company. The second recovery firm also has its own FCA warning in 2019, not suggesting any links to the original scam. And Mr F was sending funds an entirely different way, through cryptocurrency providers.

Mr F has said that it should've been reasonably foreseeable to Santander that Mr F would look to recover his funds after they were lost and it hadn't helped him. But the link trying to be made here isn't simply related to the desire to recover lost funds. How Mr F went about this is key. He chose to look up firms online and give out his details, he accepted another cold call and then set up cryptocurrency accounts and sent money to this unknown company via them. While wanting to recover lost money can be attributed to the original loss, I don't consider all the steps Mr F then took can be considered as reasonably foreseeable. There are a number of times Mr F could've made a different decision or taken a different approach – independent, intervening acts – and these break the legal chain of causation.

I don't agree the second recovery scam can be considered a reasonably foreseeable consequential loss, so that Santander should be automatically liable for these payments too. And whilst Mr F has undoubtedly been the victim of a cruel scam, I don't find there were any failings on Santander's part that would lead me to uphold this complaint.

Santander agreed with the provisional decision. Mr F disagreed and explained that if Santander had appropriately intervened on the first payment he made to the original scam, including warning him about future scam contact, he wouldn't have fallen victim to the recovery scam.

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.

I've considered the further submissions made by Mr F, but they haven't changed my outcome on this case.

There are no FCA warnings about any of the merchants Mr F made payments to in relation to the second scam. The majority of the card payments go to genuine cryptocurrency providers. And I maintain my findings that Santander didn't miss any opportunities to intervene on this scam.

I accept that by not intervening Santander didn't use a natural opportunity to warn Mr F about recovery room scams. However I'm not persuaded that any warning it gave would've prevented further losses.

As I set out in the provisional decision, Santander's notes from when Mr F initially fell victim to the recovery scam in October 2018 indicate there were concerns about these payments and Mr F reported the first payments as a scam in November 2018. The investigation notes say he was given a scam warning at this time, which included the information Mr F says should have been shared with him in 2017. Mr F continued to send money to the recovery scam for 18 further months despite him reporting the scam and the scam education he was given.

Mr F was given further scam warnings by Santander and his other bank in 2020 – and his other bank also suspended his online banking. And yet he continued to send money to this scam. Even when he's reported the scam to both his banks and the Police he makes further payments. Santander's contact notes also detail that Mr F fell victim to another scam involving the purchase of cryptocurrency in 2022 and note his embarrassment about this at that time. This pattern therefore doesn't persuade me that Mr F should be refunded his later payments due to Santander not intervening on the initial scam. I am not persuaded that the reason Mr F lost these funds is due to Santander's lack of intervention in 2017.

Santander could only have provided Mr F with warnings when he attempted the first payment, so by then he had already shared personal details with the scammers. So it couldn't have prevented them accessing or sharing this information and/or contacting him about future opportunities. And I can see that despite the multiple warnings and scam education it does give, Mr F does continue to send funds to the scammers and fall victim to other, similar scams.

I recognise why Mr F does feel the second set of funds he lost is intrinsically linked to the first set, but I maintain that the steps Mr F took that resulted in the loss of the second set of funds breaks the legal chain of causation. And that this loss cannot be considered so reasonably foreseeable that Santander should refund it. I do recognise Mr F vulnerabilities, but as I don't think Santander missed opportunities to intervene and protect Mr F, it follows that I still don't hold it liable for these payments.

My final decision

For the reasons set out above, I don't uphold Mr F's complaint against Santander UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 4 December 2024.

Amy Osborne
Ombudsman